

1901-03⁵ Chancery Causes: John G. Newlee, jr. &c vs. Eastern Kentucky Land Co] &c folder 1 d/2
Lee Co.

Ingram, Rice, Brafford, Hopkins, Fleeman, Slaughter, Good, Ely,
Allen, Divine, Duncan, Green, Colson, Morgan, Hamilton, Scott,
Savelly, Johnson, Cockrell, Lester, Peterson, Morison

Ch. Estate Dispute
T. Property

- Deed
- Correspondence

To the Honorable H.A.W.Skeen, Judge of the Circuit

Court of Lee County Virginia:-

Humbly complaining, your Omtor and Oratrices, John G. Newlee, junior W. I. Ingram and Elizabeth his wife nee Elizabeth Newlee, R. B. Rice and Carrie his wife, nee Carrie Newlee will show to your Honor that they are the children and heirs at law of W. I. Newlee, deceased; that the said W. I. Newlee, deceased, was a son and one of the heirs at law of John G. Newlee, deceased; that the said John G. Newlee departed this life intestate about the year of _____ siesed and possessed of a valuable real estate, part of which was situated in the County of Claiborne and State of Tennessee; that another large part thereof was and is situated in Lee County Virginia, all being in the vicinity of Cumberland Gap; that among the lands thus owned by him in Lee County, Virginia was an undivided moiety in a small part of what is locally known as the John Jones 1155 acre tract, and a moiety of what is known as the Beaty and Chadwell 100 acre tract; that he also owned a half interest in that part of a tract of land granted by the Commonwealth of Virginia to Nathan Field about the year 1796 which lies in Virginia, said tract being described in the patent, part of which is located in Kentucky, as containing 7080 acres; This tract of land adjoins at its west end the John Jones 1155 acre tract and the Beaty and Chadwell tract then runs eastward along the side of Cumberland mountain for a distance of some 10 miles.

Your Orators and Oratrices ~~XXXXXXXXXXXX~~ will now show your Honor that as above stated this last named tract of land was granted by the Commonwealth to Nathan Field, that about the year 1840, under decree of the Circuit Superior Court of law and Chancery for Lee County, it was sold for the taxes due thereon, by Claiborne Anderson, Commissioner of forfeited and delinquent lands for Lee County, and the same was purchased by John M. Beaty and Robert M. Ely; that thereafter to-wit, on the 17th day of Aug. 1842 the said Claiborne Anderson commissioner as aforesaid by deed duly acknowledged and duly recorded in the Clerk's office of the Lee County Court conveyed said land, being all that part

of said tract which lies in Virginia to the said Beaty and Ely, the purchasers thereof. A Copy of said deed will be filed if required; that by deed dated on the 4th day of December in the year 1868, John M. Beaty and Sarah J. Beaty conveyed their undivided interest in said tract of land to John F. Tyler, the only child and heir at law of Henry C. Tyler, deceased, who had in his life time bought from the said John M. Beaty his interest in said land, this deed is also recorded in the Clerk's office of the County Court of Lee County and a copy thereof will be filed herewith if deemed necessary; that thereafter, to-wit, on the 7th day of June, 1871 the said John F. Tyler and Jane E. his wife, sold and conveyed their undivided interest in said tract of land, along with other lands to the said John C. Newlee; that at the time of his ~~de~~ death, the said John C. Newlee left surviving him three children, ~~knowit~~, to-wit, William H. Newlee, Ada M. Newlee who intermarried with John W. Divine, and Eugenie Newlee, who intermarried first with _____ Hopkins and afterwards with Jacob Slaughter, to whom the said lands descended, said three children being the only heirs at law of the said John C. Newlee deceased.

Complainants will now show your Honor that the said William H. Newlee departed this life intestate on the 3rd day of June 1886, leaving three children, towit, John C. Newlee, junior, Elizabeth Newlee and Carrie Newlee his heirs at law, all of whom were, at the time of the death of their father, infants of very tender years.

Your complainants will now show your Honor that the said Eugenie Slaughter departed this life intestate some time prior to the death of her brother, William H. Newlee, leaving the following children and grand children, her heirs at law to whom her interest in said land descended, to-wit, John Hopkins, Laura Brafford, formerly Laura Hopkins, now the wife of Fred Brafford, Alice Fleman, formerly Alice Hopkins and now the wife of William Fleman, William Slaughter, William Good and Irene Good, the two last named being infants under the age of 21 years and grand children of Eugenie Slaughter and being the children and heirs at law of Dora Good formerly Dora Slaughter.

Your Complainants will now show your Honor, that some time in the latter part of the year 1887 Ada M.Divine and John W.Divine her husband sold or contracted to sell their interest in said land to the Eastern Kentucky Land Company, a Kentucky Corporation, doing business in the state of Virginia, and on the 19th day of December, 1887 they attempted to convey the same to said Eastern Kentucky Land Company; this attempted conveyance is defective in this, that it is without seal but it is duly recorded in the Clerk's office of the Lee County Court and a copy thereof is herewith filed as a part hereof marked "J.W.D."; and afterwards to-wit on the 2nd day of March 1895, the said Ada M.Divine and her husband J.W.Divine by deed properly prepared, signed and acknowledged, conveyed their interest in said land to the said Eastern Kentucky Land Company. *a copy of said deed is filed herewith marked "X"* Under and by virtue of its purchase from the said Ada M.Divine and J.W.Divine her husband of their interest in said land the said Eastern Kentucky Land Company took possession of *the Western end of* said tract of land, settled upon it and have since been receiving the rents and profits thereof, and paying the taxes thereon as your complainants are informed, And your Complaiants are further informed, believe and charge that said Eastern Kentucky Land Company, has sold off and attempted to convey certain portions of said land, on the western end of said tract, and have put the parties to whom said slaes were made in the possession thereof. The extent of such sales are not known to your complainants.

Your Complainants will now show your Honor that at the time of the sale by Ada M.Divine and her husband, of their interest in said land and at the time the Eastern Kentucky Land Company took possession thereof, that they, your complainants were infants of tender years, to-wit, of the following ages, John G.Newlee Jr. 16 years of age, Elizabeth Ingram 14 years of age, and Carrie M.Rice 13 years of age; and they were at that time as now non residents of the state of Virginia.

Your Complainants will now show your Honor that Robert M.Ely who owned the other moiety in said land departed this life many years ago, leaving one son William S.Ely, his heir at law to whom said lands

descended; that the said William S. Ely, also departed this life several years ago, leaving a son Robert M. Ely his only heir at law to whom said land descended; that the said Robert M. Ely also departed this life, intestate, about the year 1885, leaving three children, to-wit, Maggie Ely, Mary Ely, and Annie Ely his children, and a widow Susan Ely who has since intermarried with one T. A. Taylor, his heirs at law to whom his interest in said tract of land descended, The said Mary Ely has recently intermarried with one William P. Allen. *And down has been assigned said Susan in other lands of her deceased husband*

It thus appears that your complainants, the heirs at law of Eugenie Slaughter, the Eastern Kentucky Land Company and the heirs at law of Robert M. Ely deceased are tenants in common of said land; that the said Ely heirs are entitled to a one undivided half of said land, and that your complainants, the said Eastern Kentucky Land Company and the heirs at law of Eugenie Slaughter deceased are each entitled to a one equal third part of the other undivided moiety of said land, no partition of which has ever been made, though it is true as your complainants are informed that the Eastern Kentucky land company is in possession of the Western end of said tract while said Elys are in possession of the Eastern end thereof, both using the same. Complainants state that said Elys, as they are informed, have been using and selling timber from said land and they should be required to account for the same, but as the Eastern end of said land adjoins other lands owned by them, and as it is likely that they will want their share in this land laid off adjoining the same, which if done will perhaps render an account of sales of timber unnecessary by them. Now the object of this bill is to have partition made of said tract of land and an account of rents, profits, use and occupation by whomsoever had, and an account of sales of land or timber made by the Eastern Kentucky land company, and an account, if necessary, of sales of timber made by said Ely heirs, and being without adequate remedy at common law, they pray your honor's court of chancery to take cognizance of their cause and grant them proper relief, to this end they pray that the Eastern Kentucky land Company a corporation organized under the laws of Kentucky and doing business in Virginia, Laura Brafford and Fred Brafford her husband, John Hopkins, Alice Fle-

man, nee Alice Hopkins and William Fleman her husband, William Slaughter, William Good, and Irene Good, Maggie Ely, Anne Ely, and Mary Allen nee Ely, and W.P. Allen her husband, be made the parties defendant to this bill, and that they each be required to answer the same, but they need not answer under oath as that is expressly waived; that the said Eastern Kentucky Land Company answer and state how many and what parcels of land they have sold out of said tract, the amount received for the same and to whom sold; that they answer and state what timber and tan-bark, rock, lime, or sand they have sold from said tract of land, the amount received therefor; what rents, profits or other thing they have received from ~~ex~~ out of, or off of said land; that the ~~ex~~ said Ely heirs answer and state what rents or profits they have received from ~~ex~~ said land, what timber or tan-bark they have sold from the same and the amount received therefor; that upon a final hearing said land be partitioned and one-sixth thereof laid off to said complainants and the residue to those entitled thereto; that an account of rents and profits and sales of lands, timber, tan-bark, stone, lime, sand or other thing; be taken, the amount thereof ascertained and one-sixth part thereof be paid to complainants; that a guardian ad litem be appointed to answer and defend the rights of the infants Irene and William Good; that order of publication be duly made, posted and completed against the non-residents; and that if any wise mistaken in their special ~~prayer~~ prayers or any of them, then they pray for full general relief. May Spa. issue &c.

B. H. Swell &
C. L. Duncan P. G.
 W. E. Colson

John G. Newell, Just

vs. B. Billie Chey

Eastern Ky Land Co

1899. 1st October rules bill
filed & paid & executed on
from debts except as
to W.P. Allen & Mary Allen
& O.P. for non-residents
& costs
" 2nd October rules & paid
& executed on W.P. & Mary Allen
& D. & O.P. complete
" 1st Nov rule held the
last Monday in Oct. & N
Conf'd & cause set for
hearing

November 27th 1901

Plffs Costs

Clerk 9.60
Shiff 2.00
Lundin N.P. 2.25
Cook 1.00
Lundin H.A.L. 5.00
Hains Printer 8.00
Jones Examiner 3.00 paid

\$27.85

Defts Costs recovered

Clerk 2.93
Shiff Pa 50
D.S. " Term 1.60
Co Clerk 6.20
Atty 15.00
Hamilton N.P. 9.00
Fortner " " 1.50
Quillen " " 2.50
Witnesses

39.23

22.85

\$62.10

4.00

Wm. H. Hays

To the Hon. H. A. W. Steen Judge
of the Circuit Court of Lee
County Virginia:

The Joint
Demurrer and Answer of
The Eastern Kentucky Land Co.,
Margaret Ely, Ann Ely and
W. P. Allen and Mary Allen his
wife to a Bill filed in this
Hon Court against them and
others by John G. Newlee et al

Defendants say the plffs
Bill is not good & sufficient
in Law and of this they pray
Judgement of the Court.

But further
Answering they say, should
they be required to make further
answer, It is true John G.
Newlee, died seized & possessed
of the Nathan Fields 7080 Survey
of Land, held jointly by him
and Robert M. Ely, which passed
in Course of descent as stated
by the plffs - and they suppose
the heirs of John G. Newlee are
correctly set out by the plffs and
that the plffs are the persons they
represent themselves to be, but
they neither admit or deny
but require strict proof thereof.
It is also true the land is situated

as described by the plffs. And
these are about all the truthful
allegations made by the plffs bill.

The plffs are either grossly
ignorant of the facts, Connected
with the sale, transfer and owner-
ship of said land, or else they
seek by a poorly disguised effort
to delude, lead astray and de-
ceive others, as to the true facts.
And as the very records & papers
to which they refer and make
mention with some degree
of familiarity, discloses the true
facts of the case, the plffs can
hardly escape the just criticism
that they seek to avoid a true
statement of the facts.

It is true Newblee the elder
died seized of an undivided
moiety of the field, 7080 acre
tract, at that time, the time of
his death and for several years
before he resided in the state of
Tennessee, on his death one
Smith Crabtree a creditor of
his, filed a Creditors bill in
the Circuit Court of Lee County
Virginia, seeking the collection
of a debt, due him from Newblee
and such proceedings were
had, that John G. Newblee undivided

interest in the 7080 acre Fieldy
tract and probably others were
sold, Samuel C. Jones became
the purchaser of the Fieldy, un-
divided moiety, therefore owned
by John G. Bewley, and sometime
in 188- David Miller and C. T. Duncan
were appointed to see and did
sell these undivided lands to said
Jones, the sale was confirmed by
said Court and David Miller
directed to convey to Jones, and he
did so all which ample proof
will be made - Some time after
Jones' purchase, he sold and
conveyed, the same lands he
purchased from Miller & Co. to
J. W. Divine, who filed his bill
in this Hon. Court, seeking partition
of this same 7080 acre Fieldy tract
between him and respondent
the heirs at law of Robert M.
Ely, in that suit the lands were
partitioned, and in the year 1885 or
1886 J. W. Divine conveyed the
east end to the Ely heirs who
were infants, and A. H. Bidmore
who was appointed for the purpose
conveyed to J. W. Divine the west
end of the Fieldy 7080 acre tract.
The parties took possession of these
respective pieces and have so held ever since.

of all these facts, ample & complete
proof will if deemed necessary be
made. After this viz: 1887 J. W. Divine
sold his half the west end as sur-
veyed by C. B. Johnson in March
1887, to respondent the E. K. Landers
took possession thereof & have
occupied the same ever since, ex-
cept the rail road tunnel now
involved in an action of Ejectment
in the U. S. Court for the Western
District of Virginia at Abingdon.

So, that it will be seen that
the plffs, do not correctly or truth-
fully represent their pretended
claim. They assume that J. W.
Divine & Ada M. Divine his wife
only undertook to convey their
interest, by reference the one
third part that of Ada M's
while in truth and in fact the
deeds referred to by them as the
conveyance of Divine & wife
to the E. K. L. Co, and which they
mention in their Bill refutes
any such an idea, and shows
clearly that, Divine covenanted
claimed and sold, his half the
west end of said survey &
conveyed the same - that he owned
as purchaser, not as an heir of
John G. Bewlees at all.

of all ~~the~~ facts herein stated
 & more will be in due time
 made. And if they are true &
 they are, then no account of
 Soil, Sand, or Sales will be
 necessary. The E. K. Landlee, however
 admits that they have sold some
 small lots, taken limestone and
 occupied the same openly ad-
 versely & continuously since diving
 sale to them in 1887. And if re-
 quired they will file a full
 statement of all sales made by
 them. But they are advised that
 they are not bound to do ^{so} until
 the plffs show their legal right
 to call for the same. And respond-
 ents here deny that right, and
 wage battle upon that issue.

Respondents, the Elys, here ad-
 mit their occupancy, the use of
 the land & the sale of timber, but
 they deny the plffs right to call
 on them for any account, it is
 their own property, timber & land
 and until required by this Hon.
 Court they decline to enter into
 an account with the plffs
 upon their flimsy & untruthful
 claim of ownership. These
 respondents, have now answered
 all of the plffs bill that they are

advised it is material for
them to answer, And they deny
each and every allegation of the
pleff bill not herein before
admitted or specifically denied.
And having now fully ans-
wered they pray to be hence
dismissed with their costs.

Roll for Ely heir.
Pridemore & Sewell for
E. K. L. Lee & also Ely heir.

N. P. 15.

E. K. L. Leo & al

Ads } Demure &
Answer

John G. Howland

Filed in open Court by
leave the cof Nov 16th
1899.

A. B. Munser, Clerk

John G. Newell Jr. et als, Plaintiffs

vs.

The Eastern Ry Land Co others, Defs.

The Answer of

W. D. Slaughter, Alice Fleeman, William Fleeman, John Hopkins, William Good and Irene Good. + Laura Brafford -

The above named defendants for their answer to the bill of plaintiffs herein admit all the affirmative allegations set out in said bill.

Further pleading the defendants say that Sarah Eugene Slaughter died after the death of her husband, Jacob E. Slaughter, leaving as her only heirs at law Alice Fleeman, William Fleeman, John Hopkins, William Good, Irene Good, Laura Brafford, Fred Brafford, William D. Slaughter, Robert Slaughter and Com Slaughter - and that said Robert Slaughter Com Slaughter have since died intestate and without heirs.

The defendants adopt and reaffirm all the allegations in plaintiffs bill except as herein before modified and ask that this be treated as their answer ^{to plaintiffs} and cross bill against the defendants herein and for all equitable relief.

both general & special. to which they
may appear entitled.
And they will ever pray &c.

John Hopkins

Alice Freeman

Wm. Freeman

William Slaughter

William Good & Laura

Isaac Good. Bradford

By W G Coleman, Atty.

John G. Newell Jr.
and others Plaintiffs

vs }

Eastern Ky Land Co.
and others Defts

Answer of defts.
crossed

John Hopkin
Alice Fleeman
Wm. Fleeman
Wm. Slaughter
Wm. Ford
Anne Good.

Laura Dwyer

To the Honorable H.A.W.Skeen, Judge of the Circuit

Court of Lee County, Virginia:

The answer of William Good and Irene

Good, who are infants under the age of twenty-one years, by Geo. P. Gridlin, their Guardian ad litem, assigned to defend them in this suit, to a bill of complaint exhibited against them and others in the Circuit Court for Lee County, Virginia, by John G. Newlee, Jr., Elizabeth Ingram and W.H. Ingram, her husband, and Carrie Rice and P.B. Rice her husband:

The respondents, reserving to themselves the benefit of all just exceptions to the said bill, for answer thereto, or to so much thereof as they are advised that it is material they should answer, by their said guardian ad litem answer and say:-

That they are infants of tender years, and by reason of their infancy, are incapable of understanding, or of taking care of their rights and interests. They therefore, by their said guardian ad litem, commend themselves and their rights and interest to the protection of the Court, and pray that no decree may be pronounced which will tend to their prejudice.

And having fully answered the said respondents pray to be hence dismissed with their reasonable costs in this behalf expended, and they will ever pray, &c.

Geo. P. Gridlin
Guardian ad litem for William Good and
Irene Good.

Virginia, Lee County, to-wit:

This day personally appeared before me, A.B. Munsey, Clerk of the Circuit Court for Lee County Virginia, Geo. P. Gridlin, Guardian ad litem for William Good and Irene Good, whose answer is above written, and made oath that the statements contained in the said answer, so far as made of his own knowledge, are true; and so far as made from knowledge or information derived from others, he believes to be true.

Given under my hand this the 25th day of January, 1900.

A.B. Munsey
Clerk.

John L. Newlee et al
vs. { Guard. ad litem
^{August}
Eastern Ry. Land Co.
et al.

~~Filed March 7th 1900~~

~~A. B. Munsey Clerk~~

Filed in open Court
and by leave thereof
March 16th 1900

A. B. Munsey Clerk

Lee Circuit Court

John G. Newlee, Jr., et al.

vs. In Chancery.

Eastern Kentucky Land Company, et al.

AMENDED ANSWER OF DEFENDANTS.

To the Honorable H. A. W. Skeen,

Judge of the Circuit Court of Lee County, Virginia.

The amended answer of the Eastern Kentucky Land Co. Margaret Ely, Ann Ely, W. P. Allen and Mary Allen, his wife, to a bill filed in this honorable court against them and ^{above} others under the ~~xxxx~~ styled caption.

Respondents say that heretofore, to-wit: at the November term, 1899, of this court they filed their original answer in this cause, which is here referred to and made a part hereof as fully as is set forth at length herein. They desire by this amended answer to set up more at length and in detail the facts relied upon by them as a defense to the plaintiffs' claim.

Respondents say that the plaintiffs' bill correctly sets forth the evolution of the title to the Fields 7080 acre ~~grant~~ grant to Robert M. Ely and John G. Newlee, Jr., deceased, and from them to their heirs at law respectively, and that the names of said heirs at law are correctly given, and the ages of ~~xxxxxx~~ such of them as are mentioned in the bill are approximately correct. It is also true that Wm. H. Newlee died on June 3rd, 1886.

Respondents will now show that the said John G. Newlee,

Sr., deceased, being in his life time seised of a one-half undivided interest in the three tracts of land mentioned in the bill lying at, around and near Cumberland Gap in Virginia, to-wit: a part of the John Jones 1155 acre tract, the Beaty & Chadwell 100 acre tract, and the Nathan Field 7080 acre tract, ~~contracted~~ contracted a considerable amount of indebtedness which was not paid at the time of his death. After the death of said John G. Newlee, Sr., to-wit: on January 14th, 1875, one Wm. G. Brown sued out from the clerk's office of the Circuit Court of Lee County a spa. in chancery on a foreign attachment suit against Charles Peyton and William Swap, partners under the firm name of Peyton & Swap, and also against the heirs at law of the said John G. Newlee, Sr., to-wit: Wm. G. Newlee, Ada Divine and her husband, and Eugenia Slaughter and her husband. The bill was filed in this cause on the same day to-wit, January 14th, 1875, which alleged that Peyton & Swap had executed a promissory note to the plaintiff which was endorsed by the said John G. Newlee, Sr.; that Peyton & Swap were not residents of Virginia; and that the said heirs at law of the said Newlee were also non-residents of Virginia. It represented that the said Peyton & Swap had a lease on an iron furnace situated in the county of Lee and near Cumberland Gap, and then follows an allegation as follows, to-wit:

"Your orator also represents that he is informed and believes that the heirs of the decedent John G. Newlee owned land situated in this county and near to Cumberland Gap, a more particular description of which will hereinafter be filed as a part of this ~~bill~~ bill marked B. Your orator charges that said heirs of John G. Newlee have an interest in the land on which the said iron furnace is situated, and an interest in said furnace".

The bill prayed for attachment against all of said property, and for process &c. The exhibit B referred to in said

bill does not appear to have been filed with the record in said cause. The affidavit for attachment in said cause, however, sets forth inter alia:

"That the defendants Wm. G. Newlee, _____ Divine and Ada, his wife, and Jacob Slaughter and Eugenia, his wife, have real estate situated in this county, also near to Cumberland Gap which descended to them from their father John G. Newlee, deceased".

On the spa. in the cause is endorsed the following:

"The proper affidavit having been made, the officer serving the within process ~~has~~ ^{is} attached the estate of the defendants in the commonwealth, and the same so attached in his hands ~~was~~ ^{is} to ~~procure~~ ^{provide} that the same may be forthcoming" &c.

The sheriff's return on this spa. sets forth that he had levied the attachment inter alia:

"On the real estate of the defendants Wm. G. Newlee, _____ Divine and Ada, his wife, Jacob Slaughter and Eugenia, his wife, descended to them from their father John G. Newlee, deceased, which real estate is situated in said county of Lee, and also near Cumberland Gap".

This cause was regularly and properly matured as to all of said defendants, and the bill was taken for confessed as to all. By an order entered in said cause on the 8th day of September, 1876, ^{ix} ~~which~~ was brought on to be heard with another foreign attachment suit brought by Wheeler & Ball, plaintiffs, vs. Peyton & Swap, defendants, which suit affected only the personal estate of Peyton & Swap and had no connection with the lands of John G. Newlee, which therefore it is not necessary further to refer to. The papers in said suit have been lost or misplaced out of the clerk's office of the Circuit Court of Lee County and cannot now be found, although your respondents have made diligent search for the same in all places where such papers would likely be found. On June 25th, 1877,

Henry J. Morgan files his report as commissioner in the two causes of Wheeler & Ball vs. Peyton & Swap, et al. and Wm. G. Brown vs. same, in which he reported that there were no personal assets upon which the attachment of Wheeler & Ball could operate. He represented, however, that he had ~~formerly~~ ^{formerly} ~~information~~ reported in the case of Wheeler & Ball vs. Peyton & Swap, that John G. Newlee at the time of his death was the owner of 75 or 80 acres of land lying in Lee County on part of which is situated the Newlee Iron Works, but he supposed that said Newlee ~~really~~ ^{only} owned at the time of his death an undivided moiety thereof, as he had attempted to show in the report referred to in the suit of Wheeler & Bell vs. Peyton & Swap. At the _____ term, 187__, a decree was entered in said suit of Brown vs. Peyton & Swap, et al. in which C. T. Duncan was appointed a commissioner and was directed to sell at public outcry the real and personal property upon which the attachment in said cause was levied. This decree was not executed in this form, as will appear next hereinafter.

On February 13th, 1877, one Smith Crabtree filed his bill in the said Circuit Court for Lee County on behalf of himself and all other creditors of the estate of John G. Newlee, deceased, setting forth that said Newlee was indebted to him, that he had died leaving as his heirs Wm. H. Newlee, John W. Divine and Ada Divine, his wife, and Jacob Taughter and Eugenia Slaughter, his wife; that one Thomas S. Ely had qualified in said Lee County as the administrator of the said John G. Newlee, Sr., deceased; that there were no personal assets in the hands of said administrator, but the bill then alleges:

"But he will further state and allege that the said John G. Newlee left at his death a large and valuable real estate lying and being at Cumberland Gap, Virginia, in Lee County, consisting of mills, iron furnaces and foundries, and including a large boundary of land which descended at his death to the following children and heirs" &c.

The bill prayed that the creditors of John G. Newlee be convened and the accounts of Ely, administrator, be settled, and that the real and personal assets of said Newlee's estate be marshalled and sold for the payment of the debts due. All the aforesaid parties were made defendants and were regularly and properly proceeded against as required by law.

On the day said suit was instituted a lis pendens was filed by the plaintiff and recorded in the Lee County ^{Court} clerk's office setting forth the names of the plaintiff and defendants general object of the suit, and the parties whose estates were sought to be affected. This lis pendens says, inter alia:

"The said tract of land and real estate belonging to the defendants and which ~~was~~ sought to be administered on and subjected to the debts and liabilities against the estate of John G. Newlee, deceased, by this suit and bill in chancery lies at Cumberland Gap in Lee County, Va., and is bounded by the Tennessee line on the south and the Kentucky line on the north, and includes the furnace, foundry and mills and water power and store-house and other buildings, and iron ore" &c.

This lis pendens was indexed in the proper deed book in the name of each of the plaintiffs and defendants as required by law. On September 7th, 1877, a decree was entered adjudging that all parties defendant had been duly served with process, and taking the bill for confessed as to all of them, and appointing Henry J. Morgan a commissioner to settle and state the accounts of Ely, administrator, to convene the creditors, and show the real and personal assets in the hands of Ely, administrator.

On March 19th, 1878, Commissioner Morgan filed his report

which he made a joint report in the three causes of Wheeler & Ball vs. Peyton & Swap, et al., Wm. ⁶Brown vs. same, and Smith Crabtree vs. Thomas S. Ely, et al., being the last mentioned suit under discussion. In this report he states the outstanding debts against the estate of John G. Newlee, deceased, and attempts to give the real and personal assets. With regard to the real assets, Commissioner Morgan reports as follows:

"As I understand it, the said John G. Newlee at the time of his death was the owner of an undivided moiety of about 75 or 80 acres of land lying within this county, on which is located and situated what is known as Newlee's Iron Works or Foundry near Cumberland Gap. The manufacturers of iron and foundry men would doubtless regard this property as quite valuable, while to others it would be of comparatively little value. As an individual I should look upon it as being quite valuable on account of the fine water power which it affords for running machinery of any description, but so far as the soil is concerned for the purposes of cultivation, I should regard it as almost worthless".

On April 5th, 1875, the said three causes were brought on to be heard together, and a decree was entered approving and confirming the said report of Commissioner Morgan. This decree provides, inter alia:

"And it further appearing to the court that there are no personal assets belonging to the defendants that are liable to levy, but that the decedent John G. Newlee left at his death an undivided interest in some real estate lying and being in Lee County, Virginia, at east and south of Cumberland Gap, descended to the heirs of John G. Newlee, deceased, at his death, the court hereby orders, adjudges and decrees that the said interest in said ~~xxx~~ real estate be sold to satisfy this decree, and the court hereby appoints David Miller and Charles T. Duncan as special commissioners to make said sale" &c.

It should be stated that this decree strikes the cause of Wheeler & Ball vs. Peyton & Swap, et al. from the docket as not affecting the real estate, and continued for the purposes above set forth the two causes of Brown vs. Peyton & Swap and Crabtree vs. Ely, administrator. It will be seen by your

Honor that the last mentioned decree supercedes the decree entered in the suit of Brown vs. Peyton & Swap above set forth which appointed C. T. Duncan a commissioner to sell the property mentioned in said cause.

On August 15th, 1878, Miller and Duncan, commissioners, filed their report of sale, in which they set forth that they had:

"Advertised for sale the lands in the bills mentioned, being the lands attached on as the ~~lands~~ property of the heirs of John C. Newlee in the suit of Wm. G. Brown vs. Peyton & Swap, et al. Said lands are situated at and adjoining the Cumberland Gap in said county and are mostly or entirely mountain land wild and unimproved".

And that pursuant to said advertisement and in accordance with said decree that they had on August 5th, 1878, sold said land upon the terms required by the decree for sale to Samuel C. Jones at the price of \$482.34, that being the sum sufficient to pay the debts in the bills mentioned, costs &c. The report further states that the said Jones desired to pay the whole of said sum in cash and to receive a deed for the land. On September 3rd, 1878, a decree was entered confirming said report of Miller and Duncan, commissioners, and directing them to collect the purchase money notes. On December 4th, 1879, a decree was entered directing David Miller as commissioner ~~to~~ to execute a deed to the purchaser for the lands sold, which was recited as being the land in the bill mentioned, a report having been filed by Miller and Duncan, commissioners, that the purchase money had been paid in full. Said David Miller filed his report of deed for the land sold to said Jones by said Miller and Duncan, commissioners, and on August 30th, 1880, a final decree was rendered in the said cause of Crab-

tree, for &c. vs. Ely, Administrator, et al., confirming said deed and report thereof and striking the cause from the docket

These respondents file herewith certified copies of the complete record in the aforesaid suit of Wm. G. Brown vs. Peyton & Swap, et al. marked "Exhibit A", and a like copy of the suit of Smith Crabtree, for &c., vs. Thomas S. Ely, Admr., et al., marked "Exhibit B", and pray that the same may be read and treated as a part hereof. The deed made by Commissioner David Miller to S. C. Jones referred to above is dated January 1st, 1880, and recorded August 30th, 1880, Lee County D. B. 19 p. 197, and a certified copy thereof is filed herewith as "Exhibit C" and is prayed to be treated as a part hereof. Your Honor will see from an inspection of this deed that it conveys

"An undivided interest in the real estate in Lee County, Va., at east and west of Cumberland Gap which descended to the heirs of John G. Newlee, deceased, at the time of his death".

On September 28th, 1881, said S. C. Jones and wife conveyed to Dr. J. W. Divine for \$542 cash:

"A ~~xx~~ tract of land in Lee County, Va., near Cumberland Gap, the same being the undivided interest purchased by said Jones at the judicial sale by Duncan and Miller, commissioners in the chancery cause of Smith Crabtree vs. T. S. Ely, administrator, and the heirs of John G. Newlee, deceased, which was ~~a~~ conveyed to said Jones by David Miller, commissioner, by deed dated January 1st, 1880".

This deed was recorded March 2nd, 1882, in Lee County D. B. 19 p. 554, and a certified copy thereof is herewith filed marked "Exhibit D" and is prayed to be read as a part hereof.

These respondents are advised and they here charge that by virtue of the proceedings in the two chancery suits above recited, the entire interest ^{in said} of which said John G. Newlee died seised in Lee County, Va., at or near Cumberland Gap passed

from his heirs to Samuel C. Jones, and from the said Jones to J. W. Divine. They are advised that no other reasonable interpretation can be put upon said records. In order, however, to put your Honor in possession of the facts necessary to a proper understanding of this matter your respondents will file ~~certified~~ surveys of the Field 7090 acre tract, the Beaty and Chadwell 100 acre tract, and that part of the Jones 1165 acre tract which lies in Virginia and a connected plat of the same, from an inspection of which your Honor will see that the corner of the three states of Kentucky, Tennessee and Virginia is on top of Cumberland Mountain a considerable distance west of Cumberland Gap; that the Fields grant embraces all the land at ~~an~~ east, west and south of said Gap; that the Beaty and Chadwell tract extends from the said Fields lines still further west and south-west to the Tennessee line; and that the said Jones tract extends south and south-east of the Field tract, and embraces a long, narrow strip of land between the south line of the Fields patent and the Tennessee state line. The water power, the iron furnace or forge and the mill, all of which are referred to in the two chancery causes ~~above~~ above mentioned were situated upon the said Fields tract. The remainder of said Fields tract not occupied by said furnace, mill etc. was principally wild mountain land such as was described in said chancery proceedings. While the said Fields grant was not referred to in specific terms, still respondents are advised and they here charge that the general and somewhat imperfect description of the lands referred to in said chancery suits does describe the interest of John G. Newlee, decd.

in and to said Fields land, and that it could not refer to any other than said Fields land. And they are further advised and here charge that when the ambiguity apparent on the face of the proceedings in said chancery causes is made certain there will be no question but that the entire interest of the heirs of John G. Newlee, Sr., decd. passed as aforesaid to J. W. Divine. They further charge, as is set out in their original answer in said cause, that the said J. W. Divine brought a suit in chancery in the Circuit Court of Lee County against your respondents, the heirs at law of Robert M. Ely, by virtue of which the said Fields tract was partitioned, said respondents, the Ely heirs, obtaining title to the eastern end of said land, and the said Divine to the western end thereof, which western end or portion he conveyed to this respondent the Eastern Kentucky Land Company, as is shown by the bill in this cause and exhibits filed therewith.

These respondents will further show that at the time the said Samuel C. Jones obtained a deed from David Miller, Commr. dated January 1st, 1880, for the one-half interest in said tract of land, he and his co-defendant Robert M. Ely took the actual possession of said boundary of land and held the same each for his one-half interest ^{adversely} openly, notoriously, continuously and exclusively until the said Jones conveyed his ~~XXXXXX~~ ~~ask~~ said half interest to the said Divine, who continued his ^{adversary} joint possession with the said Ely, and subsequently with the heirs at law of said Ely until the partition of said land, which was consummated, as is set out in the original answer in this cause, in the year 1886, and after said partition this

possession continu'd on the part of the said Divine and your respondent the Eastern Kentucky Land Co. for the western portion of said tract, and by your respondents the Ely heirs for the eastern portion of said tract until this suit was brought. This possession since January 1st, 1880, has been, ~~xxxxxx~~ as above stated, open, notorious, exclusive, continuous and ~~ad~~ adverse on the part of S. C. Jones and those claiming under him as to the Newlee half interest. They charge that actual notice of this adverse claim was brought home to Wm. H. Newlee in his life time, and Eugenia Slaughter in her life time, and ~~to~~ ^{their} children and heirs at law since their death. They further charge that this possession originated and was held thereafter under color of title, as is set forth and shown by the aforesaid chancery proceedings and the deeds resulting therefrom, and became adverse to the plaintiffs and those through whom they claim in the said year 1880. These respondents are advised, therefore, that as the statute of limitations began to run during the life time of the said Wm. H. Newlee and Eugenia Slaughter it has continued to run against their heirs since their death, as one disability cannot be tacked to another, and these respondents plead and rely upon the said statute of limitations and adverse possession in addition to what they believe and are advised ~~xxx~~ is their just legal right under the aforesaid chancery proceedings. They further charge that even ~~xx~~ if the statute of limitations should not technically bar the claim here set up by these plaintiffs, still they ~~have~~ and their descendants have been grossly negligent in not bring^{ing} forward and setting up this

claim sooner, and that they should be barred in a court of equity on account of their laches. The mill or so-called iron furnace or forge that was on this property in 1878 was worth but little, and the residue of the land outside of that which was so ~~im~~^{im}proved was not regarded at that time as worth paying taxes upon. S. C. Jones at the judicial sale referred to paid a full ~~xx~~, fair and valuable consideration for the half interest in the land bought by him, and J. W. Divine in 1881 likewise paid a full, fair and ~~xx~~ valuable consideration for said interest. The property was scarcely saleable at any price at that time. While these respondents do not think it material to this issue, yet in order that the court may have full light on the subject they state it to be true that when said Divine bought from S. C. Jones in 1881 and paid him for said half interest he did so reluctantly and against his own best judgment, but did so at the earnest request and solicitation of Wm. H. Newlee and Mrs. Slaughter, who stated to him that they would pay him each one-third of his purchase money as soon as they were able to do so and thus relieve him of what he regarded as a burden. They had a sentimental interest in retaining the property which their father had owned, and this sentiment was shared by Mrs. Divine, wife of said J. W. Divine. There was no contract to that effect, but there was a verbal understanding between the said J. W. Divine and Wm. H. Newlee and Mrs. Slaughter that if the said Newlee and Mrs. Slaughter, or either of them, should within a reasonable time pay to the said Divine one-third of what the property had cost him he would convey to him or her a one-third interest. Each

of said parties lived several years after this understanding but never could, or never did, make said payment, and after their death their heirs have never made such payment, or offered to make such. As before stated, there was never any legal obligation upon the said Divine to make such conveyance or deed even if the money had been tendered to him. These statements are made because they are facts, and in order to show the real value, or lack of ~~xx~~ value, of this property during the years mentioned, and in order to show the inequitable claim which these plaintiffs and cross-complainants are seeking to set up in this cause. After the said Divine held said land for several years and paid taxes thereon when it was worth but little there came a sudden boom in property at Cumberland Gap by reason of the projected extension through what had theretofore been a wild mountain region of railroads from the south and the west. It was discovered then that this Fields tract of land, which controlled the approach on one side to the said Cumberland Gap and also had a valuable cave upon it and water power and possibly iron ore and considerable timber, was possessed of a value far beyond the wildest dream of John G. Nowlee or any of his heirs, and the said Divine sold his interest therein to this respondent the Eastern Kentucky Land Co. at the price of \$20,000.00. After all these years and after this property has enhanced in value as aforesaid these plaintiffs are now coming forward, some of them under the plea of infancy and others without even that pretense of a plea, and seeking to set up a claim which their father Wm. H. Nowlee and mother Eugenia Slaughter never did

make or set up, and which these respondents ^{believe they} never would have made or set up had they lived. These respondents would here state and charge that the youngest child of Mrs. Slaughter now living is at least 33 years of age, and none of ~~ax~~ said children, as they are advised, can at this late day establish their rights in this property even if they ever had any. Dora Good, and the mother of the infant defendants William Good ~~ax~~ Irene Good would if she were living be 36 years of age. The statute of limitations began to run against her many years before her death, and these respondents ~~can~~ plead and invoke the statute of limitations and loches as against the said heirs of Mrs. Slaughter, and they pray that this answer be treated as an answer ^{to the} ~~and~~ cross-bill filed herein by the said Slaughter heirs.

These respondents would here refer to as a part hereof the aforesaid partition proceedings of J. W. Divine vs. the Ely heirs, and ask that ^{they} ~~this~~ be read and treated as a part of this answer ^{as} ~~a~~ fully as if copied and set out at length herein ~~and~~ and they file as "Exhibits E & F" respectively certified copies of the deeds from J. W. Divine to the Ely heirs and of A. L. Pridemore, Commissioner, to J. W. Divine, and ask that same be read and treated as part hereof. They would add that the half interest in the aforesaid three tracts of land was all the land, or interest in land, anywhere in Virginia owned by the said John G. Newlee at the time of his death.

And now having denying all the allegations of the plaintiffs' bill not hereinbefore admitted or denied, respondents pray to be hence dismissed with their proper costs in this behalf expended.

John G. Newell jr et al
vs { Amended answer
of depts.

Eastern Ry Land Co.

Copy

Lee Circuit Court

John G. Newlee, Jr., et al.

vs. In Chancery.

Eastern Kentucky Land Company, et al.

AMENDED ANSWER OF DEFENDANTS.

To the Honorable H. A. W. Skeen,

Judge of the Circuit Court of Lee County, Virginia.

The amended answer of the Eastern Kentucky Land Co. Margaret Ely, Ann Ely, W. P. Allen and Mary Allen, his wife, to a bill filed in this honorable court against them and ^{above} others under the ~~xxx~~ styled caption.

Respondents say that heretofore, to-wit: at the November term, 1899, of this court they filed their original answer in this cause, which is here referred to and made a part hereof as fully as if set forth at length herein. They desire by this amended answer to set up more at length and in detail the facts relied upon by them as a defense to the plaintiffs' claim.

Respondents say that the plaintiffs' bill correctly sets forth the evolution of the title to the Fields 7080 acre ~~grant~~ grant to Robert M. Ely and John G. Newlee, Sr., deceased, and from them to their heirs at law respectively, and that the names of said heirs at law are correctly given, and the ages of ~~certain~~ such of them as are mentioned in the bill are approximately correct. It is also true that Wm. H. Newlee died on June 3rd, 1886.

Respondents will now show that the said John G. Newlee,

Sr., deceased, being in his life time seised of a one-half undivided interest in the three tracts of land mentioned in the bill lying at, around and near Cumberland Gap in Virginia, to-wit: a part of the John Jones 1155 acre tract, the Beaty & Chadwell 100 acre tract, and the Nathan Field 7080 acre tract, ~~xxxxxxxx~~ contracted a considerable amount of indebtedness which was not paid at the time of his death. After the death of said John G. Newlee, Sr., to-wit: on January 14th, 1875, one Wm. G. Brown sued out from the clerk's office of the Circuit Court of Lee County a spa. in chancery on a foreign attachment suit against Charles Peyton and William Swap, partners under the firm name of Peyton & Swap, and also against the heirs at law of the said John G. Newlee, Sr., to-wit: Wm. ^{yl} ~~yl~~ Newlee, Ada Divine and her husband, and Eugenia Slaughter and her husband. The bill was filed in this cause on the same day to-wit, January 14th, 1875, which alleged that Peyton & Swap had executed a promissory note to the plaintiff which was endorsed by the said John G. Newlee, Sr.; that Peyton & Swap were not residents of Virginia; and that the said heirs at ~~ix~~ law of the said Newlee were also non-residents of Virginia. It represented that the said Peyton & Swap had a lease on an iron furnace situated in the county of Lee and near Cumberland Gap, and then follows ^{this} ~~an~~ allegation ~~as follows~~, to-wit:

"Your orator also represents that he is informed and believes that the heirs of the decedent John G. Newlee own~~ed~~ land situated in this county and near to Cumberland Gap, a more particular description of which will hereinafter be filed as a part of this ~~xxxx~~ bill marked B. Your orator charges that said heirs of John G. Newlee have an interest in the land on which the said iron furnace is situated, and an interest in said furnace".

The bill prayed for attachment against all of said property, and for process &c. The exhibit B referred to in said

bill does not appear to have been filed with the record in said cause. The affidavit for attachment in said cause, however, sets forth inter alia:

"That the defendants Wm. ⁷⁴ Newlee, _____ Divine and Ada, his wife, and Jacob Slaughter and Eugenia, his wife, have real estate situated in this county, also near to Cumberland Gap which descended to them from their father John G. Newlee, deceased".

On the spa. in the cause is endorsed the following:

"The proper affidavit having been made, the officer serving the within process ^{is ordered to} ~~has attached~~ the estate of the defendants in the commonwealth, and the same so attached in his hands ^{is} ~~was~~ to ^{be} ~~procure~~ and provide that the same may be forthcoming"&c.

The sheriff's return on this spa. sets forth that he had levied the attachment inter alia:

"On the real estate of the defendants Wm. G. Newlee, _____ Divine and Ada, his wife, Jacob Slaughter and Eugenia, his wife, descended to them from their father John G. Newlee, deceased, which real estate is situated in said county of Lee, and also near Cumberland Gap".

This cause was regularly and properly matured as to all of said defendants, and the bill was taken for confessed as to all. By an order entered in said cause on the 8th day of September, 1876, ^{it} ~~which~~ was brought on to be heard with another foreign attachment suit brought by Wheeler & Ball, plaintiffs, vs. Peyton & Swap, defendants, which suit affected only the personal estate of Peyton & Swap and had no connection with the lands of John G. Newlee, which therefore it is not necessary further to refer to. ~~The papers in said suit have been lost or misplaced out of the clerk's office of the Circuit Court of this County and cannot now be found, although your respondents have made diligent search for the same in all places where such papers would likely be found.~~ On June 25th, 1877,

Henry J. Morgan files his report as commissioner in the two causes of Wheeler & Ball vs. Peyton & Swap, et al. and Wm. G. Brown vs. same, in which he reported that there were no personal assets upon which the attachment of Wheeler & Ball could operate. He represented, however, that he had ~~general information~~ ^{formerly} reported in the case of Wheeler & Ball vs. Peyton & Swap, that John G. Newlee at the time of his death was the owner of 75 or 80 acres of land lying in Lee County on part of which is situated the Newlee Iron Works, but he supposed that said Newlee ~~really~~ ^{only} owned at the time of his death an undivided moiety thereof, as he had attempted to show in the report referred to in the suit of Wheeler & Ball vs. Peyton & Swap. At the _____ term, 187__, a decree was entered in said suit of Brown vs. Peyton & Swap, et al. in which C. T. Duncan was appointed a commissioner and was directed to sell at public outcry the real and personal property upon which the attachment in said cause was levied. This decree was not executed in this form, as will appear next hereinafter.

On February 13th, 1877, one Smith Crabtree filed his bill in the said Circuit Court for Lee County on behalf of himself and all other creditors of the estate of John G. Newlee, deceased, setting forth that said Newlee was indebted to him, that he had died leaving as his heirs Wm. H. Newlee, John W. Divine and Ada Divine, his wife, and Jacob Slaughter and Eugenia Slaughter, his wife; that one Thomas S. Ely had qualified in said Lee County as the administrator of the said John G. Newlee, Sr., deceased; that there were no personal assets in the hands of said administrator, but the bill then alleges:

"But he will further state and allege that the said John G. Newlee left at his death a large and valuable real estate lying and being at Cumberland Gap, Virginia, in Lee County, consisting of mills, iron furnaces and foundries, and including a large boundary of land which descended at his death to the following children and heirs" &c.

The bill prayed that the creditors of John G. Newlee be convened and the accounts of Ely, administrator, be settled, and that the real and personal assets of said Newlee's estate be marshalled and sold for the payment of the debts due. All the aforesaid parties were made defendants and were regularly and properly proceeded against as required by law.

On the day said suit was instituted a lis pendens was filed by the plaintiff and recorded in the Lee County ^{court} clerk's office setting forth the names of the plaintiff and defendants, general object of the suit, and the parties whose estates were sought to be affected. This lis pendens says, inter alia:

"The said tract of land and real estate belonging to the defendants and which was sought to be administered on and subjected to the debts and liabilities against the estate of John G. Newlee, deceased, by this suit and bill in chancery lies at Cumberland Gap in Lee County, Va., and is bounded by the Tennessee line on the south and the Kentucky line on the north, and includes the furnace, foundry and mills and water power and store-house and other buildings, and iron ore" &c.

This lis pendens was indexed in the proper deed book in the name of each of the plaintiffs and defendants as required by law. On September 7th, 1877, a decree was entered adjudging that all parties defendant had been duly served with process, and taking the bill for confessed as to all of them, and appointing Henry J. Morgan a commissioner to settle and state the accounts of Ely, administrator, to convene the creditors, and show the real and personal assets in the hands of Ely, administrator.

On March 19th, 1878, Commissioner Morgan filed his report

which he made a joint report in the three causes of Wheeler & Ball vs. Peyton & Swap, et al., Wm.^{ely} Brown vs. same, and Smith Crabtree vs. Thomas S. Ely, et al., being the last mentioned suit under discussion. In this report he states the outstanding debts against the estate of John G. Newlee, deceased, and attempts to give the real and personal assets. With regard to the real assets, Commissioner Morgan reports as follows:

"As I understand it, the said John G. Newlee at the time of his death was the owner of an undivided moiety of about 75 or 80 acres of land lying within this county, on which is located and situated what is known as Newlee's Iron Works or Foundry near Cumberland Gap. The manufacturers of iron and foundry men would doubtless regard this property as quite valuable, while to others it would be of comparatively little value. As an individual I should look upon it as being quite valuable on account of the fine water power which it affords for running machinery of any description, but so far as the soil is concerned for the purposes of cultivation, I should regard it as almost worthless".

On April 5th, 1878, the said three causes were brought on to be heard together, and a decree was entered approving and confirming the said report of Commissioner Morgan. This decree provides, inter alia:

"And it further appearing to the court that there are no personal assets belonging to the defendants that are liable to levy, but that the decedent John G. Newlee left at his death an undivided interest in some real estate lying and being in Lee County, Virginia, at east and south of Cumberland Gap, descended to the heirs of John G. Newlee, deceased, at his death, the court hereby orders, adjudges and decrees that the said interest in said ~~xxx~~ real estate be sold to satisfy this decree, and the court hereby appoints David Miller and Charles T. Duncan as special commissioners to make said sale" &c.

It should be stated that this decree strikes the cause of Wheeler & Ball vs. Peyton & Swap, et al. from the docket as not affecting the real estate, and continued for the purposes above set forth the two causes of Brown vs. Peyton & Swap and Crabtree vs. Ely, administrator. It will be seen by your

Honor that the last mentioned decree supercedes the decree entered in the suit of Brown vs. Peyton & Swap above set forth which appointed C. T. Duncan a commissioner to sell the property mentioned in said cause.

On August 15th, 1878, Miller and Duncan, commissioners, filed their report of sale, in which they set forth that they had:

"Advertised for sale the lands in the bills mentioned, being the lands attached on as the ~~lands~~ property of the heirs of John G. Newlee in the suit of Wm. G. Brown vs. Peyton & Swap, et al. Said lands are situated at and adjoining the Cumberland Gap in said county and are mostly or entirely mountain land wild and unimproved".

And that pursuant to said advertisement and in accordance with said decree that they had on August 5th, 1878, sold said land upon the terms required by the decree for sale to Samuel C. Jones at the price of \$482.34, that being the sum sufficient to pay the debts in the bills mentioned, costs &c. The report further states that the said Jones desired to pay the whole of said sum in cash and to receive a deed for the land. On September 3rd, 1878, a decree was entered confirming said report of Miller and Duncan, commissioners, and directing them to collect the purchase money notes. On December 4th, 1879, a decree was entered directing David Miller as commissioner to execute a deed to the purchaser for the lands sold, which was recited as being the land in the bill mentioned, a report having been filed by Miller and Duncan, commissioners, that the purchase money had been paid in full. Said David Miller filed his report of deed for the land sold to said Jones by said Miller and Duncan, commissioners, and on August 30th, 1880, a final decree was rendered in the said cause of Crab-

tree, for &c. vs. Ely, Administrator, et al., confirming said deed and report thereof and striking the cause from the docket,

~~These respondents file herewith~~ certified copies of the complete record in the aforesaid suit of Wm. G. Brown vs.

Peyton & Swap, et al. marked "Exhibit A", and a like copy of

the suit of Smith Crabtree, for &c., vs. Thomas S. Ely, Admr.,

et al., ^{it} ~~marked~~ ^{have heretofore been filed with the deposition of G. B. Cockrell} "Exhibit B", and pray that the same may be read

and treated as a part hereof. The deed made by Commissioner

David Miller to S. C. Jones referred to above is dated January

1st, 1880, and recorded August 30th, 1880, Lee County D. B. 19

p. 197, and a certified copy thereof is filed ^{with the aforesaid deposition of G. B. Cockrell} ~~herewith~~ as "Ex-

hibit C" and ^{it} ~~is~~ prayed to be treated as a part hereof. Your

Honor will see from an inspection of this deed that it conveys:

"An undivided interest in the real estate in Lee County, Va., at east and west of Cumberland Gap which descended to the heirs of John G. Newlee, deceased, at the time of his death".

On September 28th, 1881, said S. C. Jones and wife conveyed to

Dr. J. W. Divine for \$542 cash:

"A ~~xx~~ tract of land in Lee County, Va., near Cumberland Gap, the same being the undivided interest purchased by said Jones at the judicial sale by Duncan and Miller, commissioners in the chancery cause of Smith Crabtree vs. T. S. Ely, administrator, and the heirs of John G. Newlee, deceased, which was ~~x~~ conveyed to said Jones by David Miller, commissioner, by deed dated January 1st, 1880".

This deed was recorded March 2nd, 1882, in Lee County D. B. 19

p. 554, and a certified copy thereof is ^{with the aforesaid deposition of G. B. Cockrell} ~~herewith~~ filed, marked

"Exhibit D" and ^{it} ~~is~~ prayed to be read as a part hereof.

These respondents are advised and they here charge that by virtue of the proceedings in the two chancery suits above recited, the entire interest ^{in land} of which said John G. Newlee died seised in Lee County, Va., at or near Cumberland Gap passed

* Said three tracts being contiguous to each other, constituting a continuing whole, and yet severally and particularly designated, located and described by the description of it, east, south and west of Cumberland Gap

from his ^{ex}ors to Samuel C. Jones, and from the said Jones to J. W. Divine. They are advised that no other reasonable interpretation can be put upon said records. In order, however, to put your Honor in possession of the facts necessary to a proper understanding of this matter your respondents ^{have} ~~will~~ file ^{as Exhibit "X" with the deposition in this cause of C. J. Johnson} ~~referred~~ surveys of the Field 7080 acre tract, the Beaty and Chadwell 100 acre tract, and that part of the Jones 1165 acre tract which lies in Virginia and a connected plat of the same, from an inspection of which your Honor will see that the corner of the three states of Kentucky, Tennessee and Virginia is on top of Cumberland Mountain a considerable distance west of Cumberland Gap; that the Field's grant embraces all the land at ~~we~~ east, ~~west~~ and south of said Gap; that the Beaty and Chadwell tract extends from the said Fields lines still further west and south-west to the Tennessee line; and that the said Jones tract extends south and south-east of the Field's tract, and embraces a long narrow strip of land between the south line of the Fields patent and the Tennessee state line.* The water power, the iron furnace or forge and the mill, all of which are referred to in the two chancery causes ~~above~~ mentioned, were situated upon the said Fields ^{Jones} tract. The remainder of said Fields tract not occupied by said furnace, mill etc. was principally wild mountain land such as was described in said chancery proceedings. While the said Fields grant was not referred to in specific terms, still respondents are advised and they here charge that the general and somewhat imperfect description of the lands referred to in said chancery suits does describe the interest of John G. Newlee, decd.

in and to said Fields land, and that it could not refer to any other than said Fields land. And they are further advised and here charge that when the ambiguity apparent on the face of the proceedings in said chancery causes is made certain there will be no question but that the entire interest of the heirs of John G. Newlee, Sr., decd. passed as aforesaid to J. W. Divine. They further charge, as is set out in their original answer in said cause, that the said J. W. Divine brought a suit in chancery in the Circuit Court of Lee County against your respondents, the heirs at law of Robert M. Ely, by virtue of which the said Fields tract was partitioned, said respondents, the Ely heirs, obtaining title to the eastern end of said land, and the said Divine to the western end thereof, which western end or portion he conveyed to this respondent the Eastern ~~ka~~ Kentucky Land Company, as is shown by the bill in this cause and exhibits filed therewith.

These respondents will further show that at the time the said Samuel C. Jones obtained a deed from David Miller, Commr. dated January 1st, 1880, for the one-half interest in said tract of land, he and his co-defendant Robert M. Ely took the actual possession of said boundary of land and held the same each for his one-half interest ^{adversely}, openly, notoriously, continuously and exclusively until the said Jones conveyed his ~~interest~~ ^{adversely} said half interest to the said Divine, who continued his joint possession with the said Ely, and subsequently with the heirs at law of said Ely until the partition of said land, which was consummated, as is set out in the original answer in this cause, in the year 1886, and after said partition this

possession continued on the part of the said Divine and your respondent the Eastern Kentucky Land Co. for the western portion of said tract, and by your respondents the Ely heirs for the eastern portion of said tract until this suit was brought. This possession since January 1st, 1880, has been, ~~xxxxxx~~ as above stated, open, notorious, exclusive, continuous and ~~ad~~ adverse on the part of S. C. Jones and those claiming under him as to the Newlee half interest. They charge that actual notice of this adverse claim was brought home to Wm. H. Newlee in his life time, and Eugenia Slaughter in her life time, and ^{their} to ~~xxx~~ children and heirs at law since their death. They further charge that this possession originated and was held thereafter under color of title, as is set forth and shown by the aforesaid chancery proceedings and the deeds resulting therefrom, and became adverse to the plaintiffs and those through whom they claim in the said year 1880. These respondents are advised, therefore, that as the statute of limitations began to run during the life time of the said Wm. H. Newlee and Eugenia Slaughter it has continued to run against their heirs since their death, as one disability cannot be tacked to another, and these respondents plead and rely upon the said statute of limitations and adverse possession in addition to what they believe and are advised ~~xxx~~ is their just legal right under the aforesaid chancery proceedings. They further charge that even ~~as~~ if the statute of limitations should not technically bar the claim here set up by these plaintiffs, still they ~~xxxx~~ and their descendants have been grossly negligent in not bring^{ing} forward and setting up this

claim sooner, and that they should be barred in a court of equity on account of their laches. The mill or so-called iron furnace or forge that was on this property in 1878 was worth but little, and the residue of the land outside of that which was so ~~unimproved~~^{improved} was not regarded at that time as worth paying taxes upon. S. C. Jones at the judicial sale referred to paid a full ~~xx~~, fair and valuable consideration for the half interest in the land bought by him, and J. W. Divine in 1881 likewise paid a full, fair and ~~xx~~ valuable consideration for said interest. The property was scarcely saleable at any price at that time. While these respondents do not think it material to this issue, yet in order that the court may have full light on the subject they state it to be true that when said Divine bought from S. C. Jones in 1881 and paid him for said half interest he did so reluctantly and against his own best judgment, but did so at the earnest request and solicitation of Wm. H. Newlee and Mrs. Slaughter, who stated to him that they would pay him each one-third of his purchase money as soon as they were able to do so and thus relieve him of what he regarded as a burden. They had a sentimental interest in retaining the property which their father had owned, and this sentiment was shared by Mrs. Divine, wife of said J. W. Divine. There was no contract to that effect, but there was a verbal understanding between the said J. W. Divine and Wm. H. Newlee and Mrs. Slaughter that if the said Newlee and Mrs. Slaughter, or either of them, should within a reasonable time pay to the said Divine one-third of what the property had cost him he would convey to him or her a one-third interest. Each

of said parties lived several years after this understanding but never could, or never did, make said payment, and after their death their heirs have never made such payment, or offered to make such. ^{^ Your respondent told not buy this land from J. A. Divine until} As before stated, there was never any legal obligation upon the said Divine to make such conveyance or deed even if the money had been tendered to him. These statements are made because they are facts, and in order to show the real value, or lack of ~~ax~~ value, of this property during the years mentioned, and in order to show the inequitable claim which these plaintiffs and cross-complainants are seeking to set up in this cause. After the said Divine held said land for several years and paid taxes thereon when it was worth but little there came a sudden boom in property at Cumberland Gap by reason of the projected extension through what had theretofore been a wild mountain region of railroads from the south and the west. It was discovered then that this Fields tract of land, which controlled the approach on one side to the said Cumberland Gap and also had a valuable cave upon it and water power and possibly iron ore and considerable timber, was possessed of a value far beyond the wildest dream of John G. Newlee or any of his heirs, and the said Divine sold his interest therein to this respondent the Eastern Kentucky Land Co. at the price of \$20,000.00. After all these years and after this property has enhanced in value as aforesaid these plaintiffs are now coming forward, some of them under the plea of infancy and others without even that pretense of a plea, and seeking to set up a claim which their father Wm. H. Newlee and mother Eugenia Slaughter never did

some time after the death of both Wm. H. Newlee & Mrs. Slaughter

make or set up, and which these respondents ^{believe they} never would have made or set up had they lived. These respondents would here state and charge that the youngest child of Mrs. Slaughter now living is at least ⁴38 years of age, and none of ~~ex~~ said children, as they are advised, can at this late day establish their rights in this property even if they ever had any. Dora Good, and the mother of the infant defendants William Good ~~and~~ Irene Good would if she were living be ⁸38 years of age. The statute of limitations began to run against her many years before her death, and these respondents ~~can~~ plead and invoke the statute of limitations and laches as against the said heirs of Mrs. Slaughter, and they pray that this answer be treated as an answer ^{To the} ~~and~~ cross-bill filed herein by the said Slaughter heirs.

These respondents would here refer to as a part hereof the aforesaid partition proceedings of J. W. Divine vs. the Ely heirs, and ask that ^{they} ~~this~~ be read and treated as a part of ^{as} this answer ~~a~~ fully as if copied and set out at length herein and ^{have heretofore filed with the deposition of G. B. Cocknee} ~~and they~~ ^{filed as} "Exhibits E & F" respectively certified copies of the deeds from J. W. Divine to the Ely heirs and of A. L. Pridemore, Commissioner, to J. W. Divine, and ^{they now} ~~ask~~ that ^{the} same be read and treated as part hereof. They would add that the half interest in the aforesaid three tracts of land was all the land, or interest in land, anywhere in Virginia owned by the said John G. Newlee at the time of his death.

And now ~~having~~ denying all the allegations of the plaintiffs' bill not hereinbefore admitted or denied, respondents pray to be hence dismissed with their proper costs in this behalf expended.

J. C. Noel counsel for Ely heirs.
D. C. Swire & Co. Attorneys for
Ely heirs. Land Co.

John G. Newlee Jr et al

93 } Amended Answer
of debt.

Easton Hy Land Co. et al

Filed Nov 16 1900

A B Munsey clk

John G. Newlee, Jr. et al.

v.

DECREE FINAL

Eastern Kentucky Land Co. et al.

This cause came on again this day to be heard upon ^{the} bill of complaint and exhibits filed therewith upon the joint demurrer and answer of the Eastern Kentucky Land Company, Margaret Ely, Ann Ely, W. P. Allen and Mary Allen, his wife, and the amended answer of the said defendants filed at the November term, 1900, and exhibits therewith, replications to said answers, and joinder in the said demurrer upon the answer of John Hopkins, W. F. Slaughter Alice Fleeman, William Fleeman, William Good, Irene Good and Laura Brafford, by W. G. Colson, their attorney, which answer was treated as a cross bill against the Co-defendants of the respondents; the answer of the infant defendants, William Good and Irene Good, by George P. Cridlin, their guardian ad litem, and upon the depositions of witnesses and exhibits filed therewith, ^{and upon all exceptions to depositions} and the agreed statements of facts filed by counsel, and was argued by counsel.

In consideration whereof, it appearing to the Court that all the defendants have been properly served with notice of this suit as required by law, thereupon it is adjudged, ordered and decreed that the demurrer to the plaintiff's bill be, and the same is, hereby overruled, and the Court being of the opinion on the merits of the case that the plaintiffs are not entitled to the relief prayed for in their bill, it is adjudged, ordered and decreed that the said bill be, and it is, hereby dismissed, and the defendants, the Eastern Kentucky Land Company, Margaret Ely, Ann Ely, W. P. Allen and Mary Allen, his wife, shall recover of the ^{plaintiffs} ~~defendants~~ their costs in this behalf expended; and it is ordered that this cause be stricken from the docket.

Memo. The plaintiffs having suggested to the Court that they are aggrieved by the entering of the foregoing decree and desire to prosecute an appeal therefrom to the Supreme Court of appeals of this state, it is ordered that this decree be suspended for ninety days provided the plaintiffs or some one for them execute bond before the clerk of this Court conditioned ~~in this~~ as the law directs and in the penalty of one hundred dollars.

all exceptions made by all parties having been considered and none raised at the hearing

Geo. H. Newell Jr. et al

✓ } Deem
✓ } Trial.
✓ }

Easton Ky. Land Reg. et al

Enter this
H. A. W. S. L. W.
Nov 13-01

Entered O.B. No 7 p. 35
Nov. 15th 1901.

Lee Circuit Court

John G. Newlee, Jr. et al.,

Vs.

DECREE:

Eastern Kentucky Land Co., et al.

This day came the defendants the Eastern Kentucky Land Co., Margaret Ely, Ann Ely, W. P. Allen and Mary Allen, his wife, and asked leave to file an amended ^{answer} ~~bill~~ which they tendered to the court, and the plaintiffs by counsel objected to the filing of said amended answer; and the court having heard the argument of counsel and having maturely considered the motion, doth grant the same and allow said amended answer to be filed, which is accordingly done, and the plaintiffs reply generally to the same: and this cause is continued.

John G. Newlee & et al

72 } Decece

Eastern Fly Land Co.

Entered on Lehey O.B.
No 6 Page 463

Eastern Fly
H. Newlee
Decece

Entered on Lehey O.B. at 21.

AR.

Decece

John G. Newlee & et al

John G. Newlee & et al

John G. Newlee et al, Plffs
vs

Eastern Kentucky Land & Coal Co, Defs } In
Chancery

Upon the calling of this cause, on
motion of the plaintiffs George P.
Cridline is hereby appointed guardian
ad litem to defend the infant de-
fendants, William Good and Jane
Good in this suit; and on motion
of said guardian ad litem, leave
is hereby granted him to file his answer
in said cause for said infants, and
which said answer is accordingly
filed, to which said answer the
plaintiffs replied generally, and
said cause is continued,

John F. Newellbar
{ Gordian ad
vs { Litens annex
Eastern Ry Land Co Ltd

Entered on Chy C.B.
No 6 Page 378+9

Enter this
H. A. W. Stone
March 16 1890

John H. Fowler et al
vs

Eastern Kentucky Land Co et al.

This cause came on this day
to be heard on the bill of the plaintiffs
and exhibit therewith. The answer of
Defendant the Eastern Kentucky Land Co.
to said bill and grounds in said answer
by the plaintiffs and was argued by coun-
sel. On consideration of which said
answer is overruled and thereupon
said Defendant the Eastern Kentucky Land Co.
by J. H. Fowler & Mary Allen & H. P. Allen her husband
Land Company, and John Hopkins Allen
Freeman H. M. Coleman H. M. Slaughter
H. M. Good & Isaac Good filed their ^{first} several
answers to which the plaintiffs replied
generally and the cause is continued.

John D. Andrew et al

vs. E. Brown

E. Ry Land Co

Entered our Chy D.B.
Nov. P. 345

Enter this name

H. W. 1112

Nov 15th 1899

(4)

The deposition of C.T.Duncan, taken pursuant to agreement at the law office of C.T.Duncan in the town of Jonesville, Virginia, , on the 24th day of May, 1901, to be read as evidence on the part of the plaintiffs in a chancery cause now pending in the Circuit Court of Lee County, Virginia, in which John G.Newlee, jr. and others are plaintiffs and the Eastern Kentucky Land Company and others are defendants.

Present: B.H.Sewell of Counsel for the plaintiff, and

R.T.Irvine of counsel for the defendants.

C.T.Duncan a witness of lawful age being first duly sworn deposes as follows:

Q.1.-- Please state your occupation and place of residence.

A.-- I am a practicing lawyer and reside at Jonesville, Lee County Virginia.

Q.2.-- How long have you lived at Jonesville, and how long have you been engaged in the practice of law?

A.-- I have lived at Jonesville since 1872, and have been practicing law since May 1874.

Q.3.-- Please state what connection, if any, you had with the Chancery causes of William G.Brown against Payton and Swap and others, and Smith Crabtree against Thomas S.Ely, Administrator of John G.Newlee, sr. deceased and others, and what connection you had if any with the sale of lands of John G.Newlee made in said causes?

A.-- I was attorney of the plaintiff in the case of William G. Brown against Peyton and Swap and others. I was one of the commissioners appointed by a decree entered in said causes to sell the land of said John G.Newlee deceased, and as such made a sale thereof in connection with David Miller, the other commissioner appointed for that purpose.

Q.4.-- What lands did you and David Miller as such commissioners sell in said causes?

Obj.-- The foregoing question is objected to because the report of the Commissioners is the best evidence, and parol testimony is not admissible to vary, alter or explain such report.

R.T.Irvine, Atty.

A.-- Mr.Miller and myself in making said sale acted as carefully as we could under the decree appointing us to make said sale and under

the proceedings had in said causes. The lands which I thought we were selling and the only lands that I knew anything at all of at the time we made said sale, was the land reported by Judge Morgan as belonging to the estate of John G. Newlee deceased, which was a moiety of 75 or 80 acres of land lying within this County on which was located and situated what is known as Newlee's iron works or foundry near Cumberland Gap. I had no knowledge at that time of any other lands situated in this County belonging to the estate of John G. Newlee or which descended to his heirs .

Q.5.-- Do you remember when the deed was made by David Miller, Commissioner for the land, sold by you and him as such commissioner?

A.-- I do not, any further than is shown by said deed itself. I was not a party to said deed after the sale made by Mr. Miller and myself was confirmed it was thought best by Mr. Miller and myself that only one of us should be appointed a commissioner for the purpose of conveying said land. Mr. Miller kindly consented to act, and as I remember, a decree was entered appointing him commissioner to perform that duty.

Q.6.-- At the time said sale was made, or at the date of said deed , or during the pendency of said causes, state whether or not you knew of the Fields survey which is ⁱⁿ controversy in this cause

Obj.-- The foregoing question is objected to because immaterial.

E.T. Irvine, Atty.

A.-- I did not. The first knowledge that I ever had of the existence of that survey, and of the fact that John G. Newlee or his heirs claimed or had any interest at any time in said tract of land, was some time after the year 1890, when an action of unlawful entry and detainer was on trial in the County Court of this County which stood on the docket, as I now remember, in the name of A.A. Arthur, Trustee against G.G. Cotterell and James Collins, and in which defence was made by the Eastern Kentucky Land Company. In the trial of that cause the Eastern Kentucky Land Company asserted title to the land in dispute in that cause under the Fields survey of 7080 acres, claiming to have derived title from Dr. Divine, he from Samuel C. Jones and Samuel C. Jones under a deed from Commissioner Miller; and it was asserted that

the deed made by Miller embraced this land and that Miller and myself as commissioners had sold it.

Q.7.-- Did you or not help to manage and conduct said chancery ~~causes~~ causes in which said sale was made, to a final decree?

A.-- I did. I was the Counsel as above stated for William G. Brown the plaintiff in one of said causes, and after they were brought on to be heard together they were managed by Mr. Miller and myself, acting together.

Q.8.-- State whether or not there was a conference or interview between the Commissioners, the purchaser S.C. Jones and W.H. Newlee in regard to selling the land and who should purchase it, and for whose benefit the purchase should be made, and if there was such an interview, state what arrangement if any in regard to the sale and purchase of the land that was actually sold.

Obj.-- Objected to because immaterial.

T.T. Irvine, Atty.

A.-- There was an interview between myself, William H. Newlee and S.C. Jones on the morning of the day on which said land was sold and some two hours prior to the time when the land was actually sold at the Courthouse door. I do not remember of Mr. Miller being present. At this interview I furnished, or showed to Mr. Newlee and Mr. Jones a calculation of the debts and their interest up to that day, decreed against the estate of John G. Newlee deceased, the costs of said two chancery causes and the commissions that would be due to Mr. Miller and myself for making said sale in the event that the land sold for enough to pay said debts, interest and costs. It was then agreed that Mr. Jones would bid a sum sufficient to pay the same. It was stated and so understood by me that this bid or purchase was to be made by Mr. Jones for the heirs of John G. Newlee deceased, and that they really were to have said land. And this fact as I remember, we reported to the Court ^{how} we reported the sale. My recollection is that I cried off the sale and actively conducted it, but in the presence of Mr. Miller, and Mr. Jones and Mr. Newlee were both present and Mr. Jones bid the ~~same~~ sum agreed upon as above stated, which was the only bid made that I have any recollection of.

4

Q.9.-- You remember an~~d~~ agreement between S.C.Jones and W.H.Newlee which was filed as an exhibit at Cumberland Gap with the deposition of J.H.S.Morrison. I will ask you now to state if you observed a credit of \$23.00 that was endorsed on the back of said ~~xxx~~ agreeemet, if so state in whose handwriting that endorsement was, if you know.

A.-- I did examine the paper or agreement mentioned and I observed a credit endorsed on the back of it. but I did not observe it until after Mr.Morrison had left the stand and the depositions were closed. I do not now remember the amount of said credit, but I examined carefully the handwriting and I am satisfied that said credit was ~~xxx~~ and is in the handwriting of William H Newlee deceased. I know Mr.Newlee's handwriting pretty well. I never saw him write but a few times, but I have seen and examined several writings of his.

Cross Examination.

X.Q.1.-- Who was David Miller?

A.-- David Miller was a citizen of this County and a practicing attorney at law at the Jonesville Bar. I would judge that Mr.Miller was at that time 42 to 45 years of age. He commenced practicing law here as I have been informed before the war, and I know that he resumed the practice after the war as early as 1866. He represented Lee County one or more terms in the Virginia Legislature before the war.

And further this deponent saith not.

C. T. Duncan

Virginia, Lee County, to-wit:

I, Geo.P.Cridlin, a notary public in and for the County and State aforesaid, do certify that the foregoing deposition of C.T.Duncan was taken, sworn to and subscribed before me at the time, place and for the purpose in the caption mentioned.

Given under my hand this the 25th day of May, 1901.

Geo. P. Cridlin N.P.

3

John L. Newlee et al
(vs. { Geo Lehigh

E. Ky. Land Co. et al

Deposition of
C. T. Dineen

Received from Geo. P.
Cridlin the N. P. before
whom taken and filed
May 25th 1901

ATB Munsey Clerk

Geo. P. Cridlin, N. P. fee
for taking these depos.
2 hrs. 120 \$1.50

The deposition of John M.Green,taken pursuant to agreement at the office of Cook & Jones,in the town of Pineville,Kentucky,on the 29th day of May,1901,to be read as evidence on behalf of the plaintiff in a suit in Chancery now pending in the Circuit Court of Lee County,Virginia,in which John G.Newlee Jr and others are plaintiffs and the Eastern Kentucky Land Company and others are defendants.

Present B.H.Sewall and C.T.Duncan,attorneys for the plaintiff,and R.T.Irvine and Paul E.Divine,attorneys for the Eastern Kentucky Land Company and Ely heirs,and W.G.Colson,counsel for the heirs of Mrs. Eugenia Slaughter.

John M.Green,a witness of lawful age,being first duly sworn,deposes and says.

Q.1. Please state your age,residence and occupation ?

A. Am a resident of Pineville,Kentucky,and 72 years old,and am jailer of Bell county,Kentucky.

Q.2. Were you acquainted with Samuel C.Jones in his lifetime ?

A. I was. I knew him at Cumberland Gap,Tenn.,and was afterwards at his home at Newport,Tenn.,about fourteen years ago.

Q.3. On your visit to him at Newport,Tenn.,did he have any conversation with you with reference to the land of the Newlee heirs situated at and about Cumberland Gap; if so,you may please state anything he said in reference to the payment by William H.Newlee to him of or on account of a purchase of land made by the said Jones at Jonesville,Lee county,Virginia,of the Newlee land or any of it.?

A. He said that he had become the purchaser of the Newlee lands for the benefit of the Newlee heirs. He said that Bill Newlee got him to go to Jonesville and buy in the land for the benefit of the Newlee heirs; that he did so,and carried it for the heirs until they had paid him. He

said that Newlee had paid over half of the purchase money of the land he had bought at the sale for the heirs, and that he had written Mr. Divine in regard to it, but had gotten no answer, and for me to see Mr. Johnson, who was raising the heirs of William H. Newlee, and ask him to attend to it and see that they got their part, and that he wanted him to attend to it right away, while he was alive. I am not positive whether he^{said he} had paid over ~~half~~ half or over his share. He told me how he paid it - by clerking in the store for Mr. Jones.

~~Q.1.~~ ~~Six~~ (This question and answer is objected to, as irrelevant and immaterial and because the conversation related was not in the presence of J.W. Divine or any one claiming under him and occurred long ~~a~~ after S.C. Jones had parted with his interest in the land in controversy, and is therefore hearsay. Divine & Irvine, attorneys)

Q.4. State, if you know, how long Mr. Jones lived after he had this conversation with you ?

A. I don't remember just the time, but it was not a great while until I heard he was dead.

~~Q.1.~~ Cross-Examination

Not waiving the objections to the foregoing deposition, the attorneys for the Eastern Kentucky Land Company and the Ely heirs, proceed to cross-examine the witness as follows:

Q.1. Mr. Green, Dr. J.W. ^{vine} Dine was not present at the conversation you referred to, was he ?

A. No sir.

XQ.2. Were any of the officers or agents of the Eastern Kentucky Land Company present ?

A. They were not - no one present except Mr. Jones, his wife and myself out in the yard in front of his residence.

XQ.3. Mr. Jones was not at that time living on or in possession of any of that Lee county, Virginia, lands referred to in your conversation, was he ?

A. He was not. He was living in Newport, Cock county, Tennessee, This was between 65 and 70 miles from Cumberland Gap, Tenn.

XC.4. You know nothing of your own knowledge, I suppose, as to how or by whom Mr. Jones was in fact paid for that land, do you ?

A. I do not, only what I was told by Mr. Jones.

And further this deponent sayeth not.

W. G. Colson

W. G. Colson, another witness of lawful age being first duly sworn, deposes and says:

Q.1. Please state your occupation and where you were reared up to the time of your marriage ?

A. I am a lawyer. I was raised in Bell county, Kentucky, within three miles of Cumberland Gap, Tenn.

Q.2. Were you acquainted with Samuel C. Jones in his lifetime ?

A. I was.

Q.3. If you ever heard any conversation between Samuel C. Jones and any other person as to the property owned by ~~Sam~~ John G. Newlee at the time of his death, and which descended to his heirs subject to the payment of his debts, please state what it was, with whom the conversation was had and when said conversation occurred, as nearly as you can remember ?

A. I heard such a conversation between S. C. Jones and my father, J. C. Colson. It was about the year 1879 or 1880. My father was talking to Mr. Jones in regard to the condition of the John G. Newlee estate, and in that conversation Mr. Samuel C. Jones told my father that John G. Newlee's lands about the Gap there had been sold for a debt against John G. Newlee's estate, and that he, Jones, had bought the land. And in the same conversation he told my father that John G. Newlee owned some lands in Virginia, which had not been sold, and which would make ~~xxx~~ good any

any claim my father had against said estate. I dont know that Mr.Jones described the land,but he said that Mr.Newlee owned a tract of land up in Virginia separate and aside from that sold,which would be amply sufficient to pay any debt against his estate. He described the land to be above the Gap in Lee county,Virginia.

(Question and answer objected to,as immaterial and hearsay,and not shown to be in the presence of J.W.Divine,or any one claiming under him,and further because the question of what land was sold is to be settled by the records and not by parole claim or disclaimer. Divine & Irvine,attorneys)

Q.4. Where did Samuel C.Jones live at the time you heard the above conversation ?

A. He lived on Cumberland Mountain in what is known as Cumberland Gap.

Q.5. Is he the same Samuel C.Jones,who afterwards conveyed lands to Dr.J.W.Divine,and who was alleged to be the purchaser of the lands sold by commissioners,Duncan and Miller,under proceedings had in certain Chancery causes in Lee county,Virginia.?

A. Yes.

Cross-Examination

X Q.1. Are Samuel C.Jones and your father living or dead,and if dead, how long have they been dead ?

A. They are each dead. My father died in 1882,and S.C.Jones died lat~~x~~er,but I dont remember when he did die.

X Q.2. At the time you refer to,Mr.Jones was living on the top of Cumberland Mountain in Cumberland Gap in what is known as the Old Jones house,in which he had lived some thirty or forty years,was he not ?

A. I dont know how long he had been living there,but was living on top of Cumberland Mountain in Cumberland Gap at that time. My best impression is that he moved there in 1866 or 1867.

of record, and the record is the best evidence of what that verdict was) Sewell & Duncan for plaintiffs).

Ans. Yes.

Re-Direct Examination

Q.1. I will ask you to state if it was not testified in that case that the general reputation of Mr. Lester for truth and veracity was bad and that he was not entitled to full faith and credit on oath?

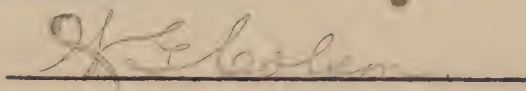
A. It was.

Re-Cross Examination

X Q.1. Was it not also testified in that case that his reputation for truth and veracity among his neighbors was good?

A. I think J.M. Hamilton, the father-in-law of the plaintiff, so testified.


And further deponent says not.



State of Kentucky)
- Sgt.
County of Bell)

I, J.C. Jones, an Examiner within and for the county of Bell, State of Kentucky, do certify that the foregoing depositions of J.M. Green and W.G. Colson, were taken, sworn to and subscribed before me at the time and place and for the purposes mentioned in the caption.

Given under my hand this 29th day of May, 1901.


Examiner Bell county, Ky.

It is agreed that the foregoing deposition, taken before J.C. Jones, an Examiner of Bell county, Kentucky, shall be considered as having the same force and effect in this cause, as if taken before a Notary Public under his official seal, and it is further agreed that said depositions shall be returned to the Clerk of the Circuit Court of Lee county, Virginia, by

Messrs Sewell & Duncan, attorneys for the plaintiff, and the return by
mail by the officer taking same is waived.

Given under our hands this 29th day of May, 1901.

*C. J. Duncan & B. H. Sewell,
attys for Refs.,
R. T. Laine for Ely L. A. & Ely Hiss*

(4) 1841

John G. Newber for DC

US { Before Thomas of
the Court of
the Court

The Eastern Kentucky Land
Company, DC.

Received from B. H. Sewell
and filed June 1st 1901
A. B. Munsey Clerk

May 27, 1901

Examined by 83
1841

John G. Newlee et al } Pending in
 vs. } the Circuit
 E. Ky Land Co., et al } Court, Va., in
 } Chancery—

In the above cause it is
 agreed that the foregoing statement
 of facts may be read in evidence
 on the trial of the same as the
 deposition of Paul E. Divine,
 on behalf of defendants E. Ky.
 Land Co., Mary Allen, Ann
 Elzeed Maggie Elze:
 1st

That Eugenia Slaughter left
 at her death the foregoing
 heirs at Law.

Laura Brofford, a daughter
 wife of Fred
 Brofford, who is now forty
 five years of age, and that she
 married before the death of
 her mother.

John Hopkins, a son, who is
 now forty three years.

Alice Fleeman, a daughter

wife of William Freeman, she
being now forty one years.

Dora Good, a daughter, wife of
Lewis Good, ^{died m 1886} If living she
would be ~~35~~ thirty eight years
old. She died before her
mother, and left two children
Irene Good ^{aged 17 yrs} and Will Good ^{aged 15 yrs}.

Will Slaughter, a son,
who is thirty four years of age.

Robert Slaughter, who died
unmarried and without issue.

Albert Slaughter, who died
unmarried without issue.

Further Deposition. Each note.

Paul E. Divine

Sworn to & Subscribed
before me this Oct. 31, 1908

Formal caption and cer-
tificate to the above deposition
of Paul E. Divine is hereby wound,
as well as notice, and it is agreed

that the same may be
filed, taken, treated and
^{of Paul E. Dineen}
read as evidence in the said
cause aforesaid, for said de-
pendents, free from objection
or exception, save as to
matters of competency only.

This Oct. 31, 1900.

Paul E. Dineen atty
for E. H. Land Co., Mary
Allen, Maggie Ely & John
Ely.

H. Gleason atty
for W. D. Sloughen, Alice
Fleming, William Fleming,
John Hopkins, Wm. L. Good &
John Good.

(7)

Jno G. Newlin Jr et al

vs
Deposition
of
Paul E. Divine

East Ky. Land Co. et al

Filed by agreement

Oct 21, 1888

The depositions of G. B. Lester, J. C. Hamilton, R. F. Paterson, J. H. S. Morison, ~~John Thompson~~

_____ taken before me T. A. Hamilton, a notary public in and for the county of Claiborne, State of Tennessee at the Williams Hotel in the town of Cumberland Gap in said county to be read in evidence in behalf of the Eastern Kentucky Land Co., Margaret Ely, Anne Ely, W. P. Allen and Mary Allen, his wife, defendants in a certain suit in chancery now pending in the circuit court of Lee County, Va. wherein John G. Newlee and others are plaintiffs and the Eastern Kentucky Land Co. and others are defendants, taken pursuant to agreement.

Present: C. T. Duncan and B. H. Sewell, attorneys for the plaintiffs; Paul E. Divine and R. T. Irvine, attorneys for the defendants, Eastern Kentucky Land Co., Margaret Ely, Ann Ely, W. P. Allen and Mary Allen, his wife.

G. B. Lester, being first duly sworn, deposes as follows:

Q-1. State your age, occupation and place of residence?

A. I am 57 years old; farmer; live 4 miles east of Cumberland Gap in Claiborne County.

Q-2. How long have you lived in this neighborhood?

A. I have lived in this neighborhood about 56 years.

Q-3. Did you know Wm. H. Newlee in his lifetime, and his father John G. Newlee, Sr. in his lifetime?

A. Yes sir, I did.

Q-4. Do you know a body of land in this neighborhood known as the Fields survey, and if so, how long have you known it?

A. Yes sir, I know it. I have been personally acquainted with that land for about 17 years.

Q-5. State if you have known it any other way longer than

17 years?

A. I have heard it spoken of before that time but have not run around it.

Q-6. Did you ever hear Wm. H. Newlee in his lifetime say anything with regard to the Fields survey or what you now know to be the Fields survey, and if so, when was it and what did he say?

A. It was just after the sale of the Virginia land to Sam Jones (I mean Samuel C. Jones). He said the land was sold by an order of court I believe, and that Mr. Jones had bid it off but that he had 3 years to redeem it in, and that he thought he would be able to do it, was about the height he said of that land.

(The foregoing answer is objected to as the heirs of Wm. H. Newlee, the plaintiffs in this case, because being a statement after the land was alleged to be sold by the decree of the court it is hearsay, he then having no interest in it according to the statement of the witness. And that part of it claiming that he had 3 years to redeem it not being shown to have been made in the presence of Jones the purchaser is self-serving and is in itself inadmissible and does not make the other part of the witness' testimony to the sale of said land admissible. ~~ExxExxExxExx~~ Further objected to because if there was a sale of it made by the court there is a record of it, which is the best evidence. C. T. Duncan^{+B. H. Sewell}).

Q-7. What land if any did Mr. Newlee tell you was included in the sale to Jones.

A. Well he spoke of two parcels of land, the Fields survey, and a part of the Jones survey was about the only land

he spoke of.

(Question objected to for the same reason as above. *W.H. Sewell*
C. T. Duncan)

Q-8. Please state whether or not after the time of the above conversation Wm. H. Newlee tried to sell you any of the land in the Fields survey, and if so, state when and all the circumstances?

A. He offered to sell me 50 acres of land near the mouth of this little hollow 3 miles from here, the Lewis hollow I mean, ~~about 3 miles from here~~. I don't know that I ~~can~~ can tell the exact date; I paid no attention to the exact time, because I did not want the land. He said he wanted to ~~xxxxxxx~~ sell this piece for the purpose of redeeming the balance of the land. He asked me \$50 for 50 acres. Mr. Jones at one time offered to sell me 100 acres on the top of the mountain at the head of the Lewis hollow.

Q-9. Did Mr. Newlee in that conversation say what should be done with the proceeds of the sale, and if so, what?

A. It should be paid to Mr. Jones he said. I believe I told him that I did not want the land at any price and that I would not take it.

Q-10. State whether anything was said by Mr. Newlee as to how the title was to be made to you for the land he proposed to sell you?

A. I think as well as I recollect my mind leads me that he said that Jones would make the proper deed to me.

Q-11. If I understand you correctly then, this transaction occurred while Mr. Jones had title to the land, and the proceeds of this proposed sale were to be paid to Mr. Jones, and would be a credit to that extent on the redemption of the land

as contemplated by Mr. Newlee, is that correct?

~~xxxxxx~~.

(The foregoing question is objected to because it is leading and suggestive at every point of the answer the witness is desired to make. C. T. Duncan ^{VBH Sewell})

A. Yes sir, that is correct.

Q-12. The 50 acres referred to by you, as I understand you, is inside the Fields survey, is that correct?

A. Yes sir.

Q-13. How did that piece of land compare in value with the residue of the Fields survey that lay in Lee County, Va?

A. That was the best there was in the whole of it. It all of was worth more money than the other.

Q-14. Did you ever hear Wm. H. Newlee make any statement with regard to what lands if any ~~about it~~ ^{Dr.} Divine had bought at this place, and if so, when and what?

(The foregoing question and any answer thereto is objected to because the answer called for is hearsay made at the time when Wm. H. Newlee, if the theory of the defense is correct, had no interest whatever in the land. C. T. Duncan ^{VBH Sewell})

A. He told me that Dr. Divine had bought this Virginia land ~~of~~ ^{that} Sam Jones had bought; that he had redeemed it. I mean that Dr. Divine had redeemed it.

Q-15. State whether or not Mr. Newlee in the same conversation said anything about himself and his sister Mrs. Slaughter being allowed to redeem ~~xxxxxx~~ their interest from Dr. Divine, and if so, what was said?

(The foregoing question and any answer thereto is objected to because the question is suggestive and leading, and

because the witness has already stated that he had detailed all that Wm. H. Newlee said. C. T. Duncan^{B. H. Sewell}).

A. I don't recollect that there was anything of that kind passed. If there was it has slipped my mind so that I would not want to say.

Q-16. To refresh your memory, I will ask you if Mr. Newlee did not say on that occasion that Dr. Divine had bought ~~the~~ all the lands in Virginia that Samuel C. Jones had formerly bought, but was willing for the other heirs to have their part of it if they paid him their part, or words to that effect?

(The foregoing question and any answer thereto is objected to because the witness has twice repeated that he had detailed all that he could remember of that conversation; that if there was anything else said in regard to it, it was such that he would not undertake to repeat. C. T. Duncan^{B. H. Sewell})

A. I tell you what I think. I think Mrs. Slaughter and ~~he~~ told me at one time that her brother had a chance at one time to redeem the land, that is their parts.

Q-17. State whether or not since you can recollect ^{has} this Fields survey ~~has~~ been an old and well known boundary of land in this section known generally to the people of the neighborhood as such?

(This question is objected to because the witness should speak from his own knowledge, and not what ~~the~~ reputation the land had in the community. ^{C. T. Duncan} B. H. Sewell)

A. I have heard it spoken of all along, but I never run around it or anything of the kind of my own knowledge until some 17 or 18 years ago. The people generally around about here knew that land as the old Fields survey.

Q-18. The records in this cause show that this land was sold about 1878 to S. C. Jones for ~~about \$482~~ \$482. and that it was sold by S. C. Jones to J. W. Divine in 1881 for \$542, the sale including ~~the half interest~~ as contended for by the Eastern Kentucky Land Co. the half interest in the Fields survey, and in that part of the John Jones 1165 acre survey which lay in Virginia, and the half interest in the Beatty and Chadwell 100 acre survey such as lay in Virginia; I will ask you whether or not you were well acquainted in the immediate vicinity at that time, and whether you know the lands referred to above, and if so, whether you regard the prices paid therefor by Jones and Divine in 1878 and 1881 respectively as a fair price for the property at that time or the contrary?

A. Yes I was well acquainted with the neighborhood. I did not know the John Jones land and the Beatty and Chadwell land separate and apart from the Fields land. I knew the boundary taking the whole circle in. The prices paid as asked for in your question were more than I would have paid. I considered it a fair price at that time.

Cross-Examination,
by Mr. Duncan.

Q-1. Were you dealing in lands about that time?

A. I don't think that I was.

Q-2. Have you ever dealt any in lands and if so to what extent?

A. I have bought a little piece or so of land but not any to any extent.

Q-3. If I understood you correctly, in your examination in chief you stated that you never became ^{personally} acquainted with the Fields survey until 17 or 18 years ago, then please state how

it is that you know what was its fair cash value in 1878 which was 23 years ago, and in 1881 which was 20 years ago?

A. I suppose it went for its cash value.

Q-4. What was the occasion of your becoming personally acquainted with the Fields survey 17 or 18 years ago?

A. I had a sister living there. She lived up here at the Lewis hollow, which is about 2 miles from this place.

Q-5. Have you ever been over the Fields survey, if so, state to what extent you have been over and upon it?

A. I have been over it. I dont know how far I have been over it. I have been up and down the mountain some 8 or 10 miles. I dont know exactly how far it reaches up the mountain.

Q-6. Do you mean to state that you have been up and down the mountain inside the boundaries of the Fields tract of land for a distance of 8 or 10 miles, and in this connection state how many times and what was the occasion of your going up and down it?

A. There were several occasions. I used to herd sheep and cattle on that land and other lands all over the mountain.

Q-7. For whom did you herd sheep inside of the boundaries of the Fields survey, when was it, and how long did it last?

A. I dont recollect exactly what date it was. I used to go with Mr. ~~Patterson~~ Hamilton here, and I used to herd for Mr. Patterson. I used to go in the mountains with William Cadle with his cattle. I frequently went in there chestnut hunting. Last summer I was in there huckleberry picking.

Q-8. Do you know the boundaries of the Fields survey, and if so, please give them?

A. I dont know that I can give the full boundaries of the Fields ~~band~~, because I never run the lines all around it. No sir I dont know the boundary exactly, only on two lines. One of them is between the lands belonging to Mr. Morison, now belongs^{ing} to Billy Gibson and others. I guess that line is something near 2 miles long, maybe something over. And after you get to the east corner of the Morison land, then the ~~land~~^{line} turns to the top of the mountain and runs across, but I dont know in what direction from there.

Q-9. You have seen these two lines run, have you?

A. Yes sir.

Q-10. By whom and when did you see them run?

A. Why the surveyor was Mr. Crockett. I dont remember when it was done. Mr. Hamilton can tell you more about that than I can.

Q-11. How far from Cumberland Gap to the east line of the Morison land?

A. I would not want to be positive in it, but I expect it is some 3 miles.

Q-12. Does the line which you saw run across the mountain from the east corner of the Morison land run straight up the mountain?

A. I dont think as well as I recollect that it does. I was not paying much attention when I was along when it was being run.

Q-13. Does it slant or bear east or west?

A. It rather seems to me that it bears east a little as well as I recollect.

Q-14. Was that survey done by Crockett more or less than

17 or 18 years ago?

A. It might have been. I will not be positive as I never charged my mind with it.

Q-9. Then that surveying was done before you became personally acquainted with the Fields survey was it not?

A. Yes before I became personally acquainted with the Fields survey.

Q-10. Then do you mean for me to understand that Mr. Crockett was running the lines of the Fields survey at that time?

A. No sir.

Q-11. You state in answer to a question propounded to you in your direct examination that you heard Wm. H. Newlee say that the land was sold, that Jones had bought it and he had 3 years in which to redeem it; where were you and Mr. Newlee when this conversation occurred.

A. We were at his house, ~~which~~ where the depot at Cumberland Gap now stands.

Q-12. How long ago has it been since that conversation occurred? Give me your best impression.

A. I think as well as I recollect it was somewhere in the seventies.

Q-13. What lands did Mr. Newlee tell you were sold on that occasion?

A. I believe he said this: "All of our Virginia lands."

Q-14. Did you not state in your examination in chief that Mr. Newlee then said that two pieces were sold? The Fields land and the Jones land.

A. Yes sir, ~~but~~ He ~~said~~ ^{he said} after it was all sold he told me of the two pieces.

Q-15. After tell^{ing} you that it was all sold why did he single out the Fields land and the Hones land?

A. Well I asked him this question-I asked him if it included the mill property, and he said the mill property was in Tennessee. Then he went on to tell that these two pieces lay on that side (east side of the mill) He did not say anything about this side (that is the west side) of the mill.

Q-16. How long was it after this conversation until he offered to sell you the piece of land in the Lewis hollow?

A. It was somewhere before the redemption run out. I dont know when the date of that was.

Q-17. Please state as nearly as you can remember the number of years between the time that Mr. Newlee told you ~~that~~^{those} lands were sold and Jones had bought them, and the time when Mr. Newlee offered to sell you the piece of land in the Lewis hollow?

A. I suppose it would be about a year and a half, or it might have been a little longer than that. The way it came about, me and my brother-in-law were right down there (witness points to spot near the depot in Cumberland Gap) mowing and Mr. Newlee came along, and my brother in law was living up there in the Lewis hollow, and Mr. Newlee got to talking about it and proposed to sell me that piece of land.

Q-18. Who were you mowing for?

A. Mr. Wm. H. Newlee.

Q-19. How long was that before Wm. H. Newlee's death?

A. I dont know that I can^{tell} exactly how long that was. It was just before he left here and went over to his wife's people in Kentucky.

Q-20. You state that Mr. Newlee told you that Mr. Jones

would make you a deed?

A. Yes sir.

Q-21. Why did he tell you that when you told him you would not purchase the land?

A. I suppose him and my brother thought they would gull me into it by talking fair talk, and they were both on me to buy it.

Q-22. When was it that Samuel C. Jones proposed to sell you 100 acres on the top of the mountain opposite the Lewis hollow?

A. It was some time after Mr. Newlee had made this offer. It was some 2 years after the sale of the land to Mr. Jones.

Q-23. How long was that after Mr. Jones left the Gap and moved to Tennessee?

A. I dont know that I can tell you.

Q-24. Give me your best impression?

A. I guess it was some 6 months or a year before he moved, but I would not be positive.

Q-25. You state in answer to ^a ~~your~~ question propounded to you in your examination in chief that W/ H. Newlee told you that Dr. Divine had bought or redeemed the land, now which did he tell you, that he had bought it or red^emed it?

A. My best recollection is that he said that Dr. Divine had redeemed it.

Q-26. How long did that conversation occur before Wm. H. Newlee's death? Give me your best impression.

A. I have no impression how far apart it was, as I did not charge my mind with any of it.

Q-27. Did this conversation occur before or after Sam Jones offered to sell you the 100 acres on the top of the mountain?

A. It was after he redeemed it of course, and was after Mr. Jones offered to sell me the 100 acres.

Q-28. How long was it after Mr. Jones offered to sell you the 100 acres until Mr. Newlee told you that Dr. Divine had redeemed the land? Give me your best impression.

A. It was some considerable time. I cant say exactly how long. I was away on other business and was not right here in the Gap just after that, and it might have been six months. I cant give it any nearer.

Q-29. You say you have heard that tract of land spoken of all along before you became personally acquainted with it as the Fields survey?

A. Yes sir.

Q-30. Tell what men you heard speak of that as the Fields survey more than 17 or 18 years ago?

A. I could not tell you that without sitting and talking several hours. I name you a few. I have heard Mr. Huff talk about it. Old Mr. John G. Newlee, ^{and} I have heard old Dr. Morison speak of it. I heard Mr. Crockett speak of it. I have heard old Billy Woodson speak of it, and numerous others too numerous to mention.

Q-31. Every person you have named is dead is he not?

A. I believe they are. I can tell you one man who is living. Frazier Otie down here, a brother in law of John G. Newlee, speak of it.

Q-32. When did you hear Mr. Otie speak of that being the

~~the~~ Fields survey more than 18 years ago? and what was the occasion of his speaking of it? and where were you living at the time?

A. . I was living out here about 4 miles from here near Powell's River, and I dont recollect that I can tell you how the conversation came up, but it was while something was said about the properties at Cumberland Gap I think .

Q-33. What did Mr. Jones ask you for the 100 acres on the top of the mountain, and which side of the mountain did it lie on?

A. ~~I offered him a mare for the 100 acres of land which he would have asked for about \$125. I suppose~~

He offered me the 100 acres for a mare which I then owned and which I could have sold for about \$125. The land lies in a kind of double of the mountain, and I have an impression that most, if not all, of it would lie in Virginia.

Q-34. Did I understand you to say that you did not know the Fields land, the Beatty and Chadwell land, and the John Jones land separate and ~~far~~ apart?

A. Yes, until it was pointed out to me.

Q-35. Did you know them separate and apart before Mr. Jones proposed to sell you the 100 acres on the top of the mountain?

A. No sir.

Q-36. When did you learn the lines between these three tracts of land?

A. I dont know the lines yet sir. I dont know a corner of any of them except the lines I spoke of at first.

Further deponent sayeth not.

Attest: A.C. Anderson

G. B. ^{this} Lester
mark

Also the deposition of R. F. Patterson, who being first duly sworn, deposes as follows:

Q-1. State your age, occupation and place of residence?

A. I am a farmer now; residence 3 miles south of Cumberland Gap in Claiborne County, Tenn; age 67.

Q-2. How long have you lived in this neighborhood?

A. I have lived at Cumberland Gap with the exception of an interval of 4 years absence at college and 12 years practising law at Tazewell, the county seat of Claiborne County, all my life since I was 3 years old.

Q-3. Did you know John G. Newlee Sr. in his lifetime, and Wm. H. Newlee?

A. I knew both of them well.

Q-4. When did Wm. H. Newlee die?

A. I know that he died after 1880 but I cant just tell the year.

Q-5. State whether or not during his last illness and shortly prior to his death you had a conversation with him about his temporal affairs, and if so, state the circumstances and substance of what he said?

A Right to object to this question and the answer thereto is reserved until the answer is given thereto. C. T. Duncan) ^{W.B.H. Sewell}

A. At that time I lived on my farm where I now live. He was seriously sick for about 3 months before his death. I came over to the Gap here frequently to see him. He talked to me a great deal about his business. I was legal adviser for him I think as administrator of the estate of his father John G. Newlee Sr. of his estate in Tennessee. He said to me that he was very much puzzled about his affairs, especially about his three children, a boy and two little children, that he had nothing left to educate them or keep them. I told him

that he need not be troubled about that, that there were two orphanages, one at Anchorage, Ky. and the other in South Carolina, and that his friends here would see to it, that those children were taken care of, educated, and fitted for life.

~~Q-5.~~ (The foregoing answer is objected to because immaterial to the issues involved in this case. C. T. Duncan ^{YB H. Sewell})

Q-6. Did he or not at that time claim to own any interest in the Fields survey near Cumberland Gap in Lee County, Va. or in any other land in Lee County?

A. He did not claim to own any interest in his father's land. He was cognizant of the fact that I knew his business and what he said was that he was troubled that he had nothing to leave his children.

Q-7. You were I suppose acquainted with Dr. Divine and his wife?

A. Yes sir.

Q-8. Do you know about the time Dr. Divine purchased from Samuel C. Jones certain lands in Lee County at or near Cumberland Gap?

A. Yes I know the time when he purchased the land.

Q-9. From that time forward can you state whether or not Wm. H. Newlee claimed to own any interest in those lands or exercise any acts of ownership over them?

A. I make this statement. William Newlee as stated above was administrator of John G. Newlee. He fell behind collecting the debts due the estate some \$600 indebtedness of the estate. The court had ordered him to make a settlement. Dr. Divine, who was his security, came to me one day and said ~~xxxxxxafraidxxxxxxguiltxxxxxxfxxxxxx~~ I am afraid William Newlee has not done his duty and I will have the debt to pay. I told

him that Newlee had made an effort to collect the debts and they had better have the lands sold and buy the land in themselves, and Dr. Divine said: If I have to buy it myself I am not able to spare the money, but it was sold and Dr. Divine bought the land. Then so far as I know he left it under the care of William Newlee and Mrs. Slaughter. At any rate William Newlee and Mrs. Slaughter got their meal from the mill and used whatever of the farming land they pleased for farming or ~~xxxx~~ patch purposes. He did not claim to own any lands at all, but hoped that he might make some terms to redeem his portion, which he always felt Dr. Divine would allow if he were able to meet it, and went to Pineville, Ky. and got into business there as a merchant for the purpose of trying to get money to redeem it. I passed through Pineville one day while he was there and asked him how he was getting along, and he told me that he did not think he would be able to make the redemption, and I saw from his looks that he was killing himself drinking, and advised him to come back home.

(The foregoing answer is objected to as evidence in so far as it undertakes to detail conversations between the witness and Dr. Divine. It is further objected to in so far as it details the conversation between the witness and Wm. H. Newlee, because it is very apparent that these conversations were between attorney and client, and if not between attorney and client under the seal of personal confidence and friendship, and for further reason that the whole of it is immaterial to the issue involved in this suit. ~~xxx~~ And further from the answer itself it is shown that it relates to Tennessee land. C. T. Duncan^{B. H. Sewell}).

Q-10. Captain, I will ask you if any of the conversation

between yourself and Wm. H. Newlee were made under the relationship of attorney and client, or were they merely as between personal friends?

A. The conversation here at the Gap on his bed of sickness was merely as between friend and neighbor. The conversation referred to when he was administrator was I think between attorney and client, although I never received any money there for. I rather think, however, in this matter he came to me more like a brother and not as attorney.

Q-11. I will ask you if after the sale to Dr. Divine Mrs. Slaughter claimed to own any interest in the lands purchased by Divine from Samuel C. Jones?

A. I don't think I ever saw Mrs. Slaughter more than 2 or 3 time after the death of her father, and had very little conversation with her, but I know that William Newlee looked out for her and had her under his care, but towards a short time before his death I think that he and Mrs. Slaughter were not on good terms, and I never heard Mrs. Slaughter say anything about her business, that I can now remember of.

Q-12. Captain Patterson, I will ask you whether or not from your knowledge of this section and of land values about Cumberland Gap in 1878 and 1881 \$482 in 1878 and \$542 in 1881 was the fair cash value for the lands purchased by Samuel C. Jones in 1878 and sold by him in 1881 to Dr. Divine on the supposition that what was sold in each case was a half interest of what lay in Lee County, Va., of what is known as the Fields patent, and of such portion of the John Jones patent as extended into Lee County, and of the Beatty and Chadwell patent in and around the Cumberland Gap, the acreage of the Jones patent that lay in Virginia being considered as 75 and

the Beatty and Chadwell being 100 acres, but about one-half of it or more than one half of it overlapping on the Fields patent, and the total acreage of the Fields patent being 7080, of which about 4800 acres lay in Virginia?

A. I have always understood that these mountain lands bought up simply for range by men went from 25 to 75 cents per acre according to locality. At that time the mineral and wood on the land was not taken into consideration in prices, and I would not place that land at over 25 cents an acre at that time. As to my own valuation of it I would not have had it for the taxes.

Q-13. What was then the nearest railroad station to Cumberland Gap?

A. Morristown, Tenn., 43 miles distant, and to get there one would have to cross three rivers and two mountain ranges, and quite a number of hills and ridges.

Cross-Examination,
by Mr. Duncan.

Q-1. Are you acquainted with the location of the Virginia and Tennessee line, and the location of the line of the Fields survey near and east of Cumberland Gap?

A. I am not, unless the north line is the top of Cumberland Mountain, and I am not very well acquainted with the location of the Tennessee line.

Q-2. Suppose there is lying between the Tennessee line and the Fields ~~line~~ south line 37 acres of land which belonged to the estate of John G. Newlee, upon which stood the furnace and perhaps a part of the mill, what would that have been

worth per acre?

A. I can only approximate as I am no expert in machine property, but I should think that 37 acres with the furnace in full blast and occupied by the mill property ought to be worth \$2500, but I put no value on the land itself. I put the value on the furnace, mill and water power. I have said I would put no value on the land, but I might say a little bit - from 25 to 30 cents per acre. My figures for the value above are on the whole proper. A half interest would of course be one-half.

Q-3. You think that 25 or 30 cents per acre would have been the fair cash value of the land lying between the Tennessee state line and the south line of the Fields survey in 1878 including its adaptability for manufacturing purposes, the water that was running over it, etc?

A. In answering the question with regard to the value of the Fields survey in the principal examination I was simply estimating the mountain land which I supposed to be the Fields survey, not knowing as I stated where the lines ran. Now in answer to the question of Judge Duncan, I state that according to the best of my belief and knowledge that the 37 acres at that time with the water power, mill building standing there and furnace should have been at least \$70 an acre to sell it as a whole.

Q-4. Did you ever know of any sale or contract of sale by John G. Newlee in his lifetime for the sale of the Fields survey of land, or for his interest therein; if so, state the price at which he sold it or contracted to sell it, and the time when said contract was made?

A. ~~Maxixixixnatxknexanyxixingxexixix~~ Yes and in a

title bond that I wrote he sold the land to Chamberlain and Meredith for \$3 an acre on June 1st, 1872, but the trade did not materialize. Chamberlain & Meredith afterwards contracted the land to Burnup & Co., Bankers, London, England; at least that is what Chamberlain claimed. These all fell through.

Q-5. Did you not visit Wm. H. Newlee on the night before his death?

A. I think it must have been the last time I visited him about 3 days before his death, and was not there when he died.

Q-6. Was not your last visit to Wm. H. Newlee before his death in company with Mrs. ^{Amanda} ~~Delinda~~ Morrison, wife of H. S. Morrison, and at that time did you not ask Wm. H. Newlee to state over to you all his business matters, and he told you to come back next morning and he would do so?

A. Yes Mrs. Morrison was with me on one visit there, but I think not the last, because I remember going back the next day on that business, and I think my wife and Mrs. Divine were there, but on the day that Mrs. Morrison was there he was very sick and very much agitated, and seemed as if he was wanting to put all business off. When Mrs. Morrison and I were there together it was 3 or 4 days before his death.

Q-7. I will repeat the question so as to make it a little more definite and specific; did you not in company with Mrs. Amanda Morrison shortly before the death of Wm. H. Newlee visit him, ask him to state over to you all his business affairs; and did he not on that day tell you he was not able to do so and to come back next morning when he would do so?

A. Yes, and on that occasion at the request of Mrs.

Morrison and Mrs. Divine I asked him to state over to me all his business matters. He said to me that he was too weak then to do so but for me to come back on the next day and he would.

Q-8. In answer to questions propounded to you in your examination in chief you state that Mr. Newlee in the conversations that you had with him set up no claim to an interest in the Fields tract of land, did he ever mention that tract of land to you in any conversations in any way?

A. He did not. He was a member of the church to which I belonged, and his minister the Rev. Mr. Campbell and me felt in some ways he was a good man, and that he had gone astray and tempted, and we tried to get him back again to where his mind would be clear and his faith strong again in religious matters for we felt he was going to die, and this conversation about his children and property at different times only came in because I could not get his mind off the troubles of business and the condition his children were in, and I was not really going to see him on his financial business, but the financial part came in incidentally.

Q-9. After the visit of you and Mrs. Morrison ~~were~~ there together as above stated by you, did you not return ^{again} on the next day and find Mr. Newlee too weak to talk about his business, and did he at any time talk to you about it as he had told you he would?

A. I think I returned next day and he was still weak and I don't think he talked with me, and he never did do so after this time, and I think he died the next day

Q-10. You speak of Mr. Newlee being in business at Pine-

ville, please state what business he was in there if you know?

A. I dont know what he was doing, but I thought he was merchandising in some way.

Redirect-Examination,
by Mr. Irvine.

Q-1. Your estimate of \$2500 for the machinery and water power on the 37 acre tract of land referred to in your cross-examination was based as I understand you on the furnace being in operation and on the mill being entirely on this land and in good repair and operation, is that correct?

A. Not quite, I base it on the value of that mill and furnace property at any time, whether in operation or not, and the water power there and all ready to start at any time with the 37 acres attached I would value at that price.

Q-2. Suppose the mill was not on that tract of land but was entirely on the Tennessee side of the line, how much would you lessen your valuation by reason of this fact?

(This question is objected to unless accompanied with an avowal that it is proposed to show that the mill is on the Tennessee side. *v B A Sewell* C. T. Duncan).

A. If you exclude the mill I would lessen the value of the plot of ground \$1000, the price that I understand it cost Mr. Newlee to build the mill and fix it up.

Q-3. Was any iron ever made at that furnace after the purchase of this property by Mr. S. C. Jones in 1878?

A. I dont think it ~~was ever run~~ was ever run after Heller broke up; if so, I cant remember.

Q-4. Was it not a fact that everybody who undertook to operate that furnace got broke up or lost money at it?

A. That was the understanding in the neighborhood but

I knew nothing about it myself ~~the account~~. They all had the stock. I dont know whether they lost money or not.

(Objected to as immaterial. C. T. Duncan) ^{W. H. Sewell}

Q-5. This is spoken of as an iron furnace, please state what kind of a furnace it was and what it probably cost to erect it?

A. I dont suppose that the furnace could be built and the machinery and prepared for work under \$1200, though this is a guess as I dont know about such things.

Q-6. Is it not a fact Captain that this furnace was worn out and abandoned and utterly worthless at the time of the sale to Mr. Jones in 1878?

A. I dont remember the condition of the furnace at that time. There was a large blow pipe that fell down about that time, but that is about all that I can remember about the condition of the property.

Q-7. No one ever undertook afterwards to repair and operate it did they?

A. No sir.

Q-8. You spoke of a contract of sale made by John G. Newlee to Chamberlain & Meredith for this land at \$3 per acre in June, 1872, I will ask you if at that time it had been demonstrated as it was later that iron could not be manufactured profitably at Cumberland Gap under the conditions then existing?

A. ~~xxxx~~ They began to make iron here in about 1869, and worked at it until Heller broke up. I cant ^{remember whether it was} ~~which~~ ~~was~~ 2 or 3 years after Heller broke up. I cant remember whether it was in 1871 or 1873 but I think he had broken up before Newlee had made the contract of sale to Chamberlain and

Meredith.

Q-9. Were Chamberlain & Meredith men of this vicinity, or were they what we have come to know later as boomers, residing at a distance from Cumberland Gap?

A. They were boom speculators. Meredith lived in England, and Chamberlain's home was in England but his home was in New Orleans as he claimed.

Q-10. As I understand you, this contract was abandoned and no sale was ever made on such a basis, is that correct?

A. That is correct.

(The last five questions and answers objected to as irrelevant and immaterial. B. H. Sewell)
C. J. Duncan

Further deponent sayeth not.

R. F. Patterson

Also the deposition of J. C. Hamilton, who being first duly sworn, deposes as follows:

Q-1. Please state your age, occupation and place of residence?

A. I am 55 years old; my residence is Shawnee, which is about 2 miles from Cumberland Gap in Claiborne County, Tenn; occupation farmer.

Q-2. How long have you lived in this vicinity?

A. I was born and raised right out near where I lived all my life.

Q-3. Do you know in a general way the location of the Fields patent as far as it lies in Virginia, it being a patent of 7080 acres lying near Cumberland Gap?

A. Yes, I have some knowledge of the Fields survey. I have heard a great deal of talk about it, and I helped to run a line between the Fields survey and a line of the American Association which goes by the name of the Rose land. We began to run about 3 miles east of Cumberland Gap, and ran on in an east direction about 4 miles, possibly not so far.

Q-4. Do you know in a general way how the line runs from this point (Cumberland Gap) to the point where you began to survey on the Rose land?

A. Yes, I know in a general way. It is in an east direction.

Q-5. State how long you have been acquainted in a general way with the Fields survey, and how long you have known such a survey lay in that location?

A. All my life - ever since I recollect I have heard talk of it and known it as that survey.

Q-6. State whether or not this survey has, so far as you have known anything, been generally known throughout the community by all the people in this vicinity?

A. It has.

Q-7. Do you know where the Jones patent runs up into Virginia between the Tennessee state line and the Fields line near the town of Cumberland Gap?

A. No sir, I do not by that name.

Q-8. Do you know the lands owned immediately at and in the vicinity of Cumberland Gap in Lee County, Va., by John G. Newlee in his lifetime?

A. Yes sir, I have a good idea of the boundary.

Q-9. Do you remember when iron was last made and by whom in the furnace on that land?

A. Yes sir. Why it was made here, to the best of my recollection, about 1873 or 1874 by Peyton & Swap.

Q-10. State the kind of furnace it was?

A. It was a very rough old stack standing up there. They undertook to run it and they made some iron, but they never had any luck. In drawing the iron off they had to dip it out with ladles. I saw them making some pig iron by dipping it out in that way.

Q-11. What was the stack that you speak of made out of?

A. It was made principally out of stone and rock.. The rock was gotten out here.

Q-12. It was not then, as I understand you, made of iron or metal?

A. No sir, there was no metal about it.

Q-13. What would you value that so-called furnace at in the year 1878?

A. I could not give the valuation of it. They could not do anything with it, and I would value it as worthless property. It was not worth the cost of the rocks I suppose.

Q-14. You knew, I suppose, the water mill located on or near the said location between Tennessee and Virginia which was owned or ~~controlled~~ partly owned by John G. Newlee?

A. Yes sir, I ran the water mill.

Q-15. Can you state on which side of the line the mill stood?

A. No sir, I could not. Some claimed it stood on the Virginia side; that the line ran right in front of the door; and some said the line ran across it; but it was generally conceded to be by most people that the mill was on the Virginia side.

Q-16. Please describe this mill as it was in the year 1878?

A. It was a cheap mill, put up on a cheap plan - a cheap corn mill is all. There was a carding machine first built, and the wheel was built for the carding machine. I suppose the carding machine did not pay, and they took the carding machine out and put the corn burrows in.

Q-17. What kind of a building was over these corn burrows in 1878?

A. It was just a cheap building costing something like \$50 or \$75.

Q-18. Taking the mill in the condition it was in as you remember it in 1878, what would you say it was then worth?

A. I could not put the whole thing at more than \$150.

Q-19. Had there or not been a better plant there some time prior to that year?

A. Yes sir, a mill burned down there in 1862 was my recollection. It was a good mill for this part of the country at that time.

Q-20. I will ask you now, taking the land owned by John G. Newlee at the time of his death embracing the Fields survey above referred to and the additional land west thereof above and near the present town of Cumberland Gap and around the Gap in the

mountain by the name of Cumberland Gap, which boundary you say you are acquainted with, and taking a half interest in that entire property including the Fields survey as it stood in the year 1878, what would you put upon this half interest as a fair cash value - I mean what lies in Virginia taking that property as it stood?

A. I would think \$500 would have been a reasonable price, and I doubt whether it would have brought that as the land ~~xxxxxx~~ was not considered worth anything.

Q-21. What is the general character of this body of land as far as being steep or the contrary, or as being fit for cultivation or the contrary?

A. I would consider that land, or the most of it I have seen, as not being fit for cultivation. Most of it is just on the side of the mountain. After you get past Lewis hollow it is on the side of the mountain.

Q-22. This is the south side of Cumberland Mtn. you refer to?

A. Yes sir.

Q-23. Do you remember about the time that Samuel C. Jones bought this land?

A. I remember pretty well the time that I heard of it. I never heard Jones mention it, but I heard Jones had bought it.

Q-24. Do you remember subsequently of the sale by Jones to Dr. J. W. Divine?

A. Well I understood that Dr. Divine redeemed the land - that was my understanding. I never heard Jones or Divine say anything about it that I recollect.

Q-25. Please state what you mean by redeeming the land?

A. My understanding was that Jones gave them the privilege of redeeming the land, and in case they redeemed it he was to give it up to any of the heirs if they redeemed it of John G. Newlee. My

understanding was that Dr. Divine redeemed the land.

(The foregoing question and answer objected to because the witness does not state that he got his understanding from the parties in interest or any of them. B. H. Sewell & C. T. Duncan, Attys.)

Q-26. Please state if you know who controlled this property, that is, exercised acts of ownership and dominion over it after it was purchased by S. C. Jones and before it was sold to Dr. Divine?

A. I could not say whether Jones exercised ownership or not. I never heard Jones say anything about it, and I never heard but very little said about the land until after Divine had bought it, or redeemed it.

Q-27. After Divine purchased, please state who controlled it and exercised acts of ownership and dominion over it, if you know?

A. My understanding is that Divine controlled it.

(Answer of the witness is objected to because it is his knowledge that is desired and not his understanding. Duncan and Sewell)

Q-28. Please state, Mr. Hamilton, what facts you know in that connection of Dr. Divine's acts of ownership after his purchase?

A. I could not state any facts no more than I ~~have~~ was just told. In regard to the sale I was told that he sold it to Major Cockrell, but if I heard Divine mention it I don't remember it now.

Q-29. Do you know whether he had any tenants on it or not?

A. There were men on it for a while, but I do not know who put them on, I could not say. I have worked on the land up there. John Thompson lived on it I reckon in 1873, but that was before it was in Divine's hands. Barnes lived there. George Cadle and different families, but I do not know whose administration it was under.

Q-30. Where is this place at which these men lived that you

refer to?

A. It was at Lewis hollow, right at the foot of the mountain.

Q-31. Is there more than one cleared place that you know of up in the Fields survey in Virginia?

A. No sir, I don't know but the one.

Q-32. Did you know Wm. H. Newlee in his lifetime?

A. Yes sir, I knew Mr. Newlee very well.

Q-33. Did you ever know of his claiming any interest in the ^{after} land Dr. Divine purchased it?

A. If they ever claimed any interest I never heard it.

Cross-Examination.

Q-1. Did you ever know of Wm. H. Newlee disclaiming any interest in that land?

A. I neither know of his claiming or disclaiming. I never heard him state anything that I recollect of.

Q-2. Suppose that there is 75 acres of land lying here near Cumberland Gap between the Virginia and Tennessee line on the south and the Fields line on the north on which is located the old furnace, the mill site and the fine water power that is on it, what would have been the fair value of that 75 acres including that water power, furnace and mill site in 1878?

A. I put it at \$500, which I think would be a fair valuation, including the Fields survey. As to the land out there like that, I would not think it was worth over a dollar an acre at that time. As to this other property, I gave the valuation of it some time ago - I mean the mill and building at \$150. I would put the water power, the mill and furnace and the 75 acres in 1878 at \$225.

Q-3. Were you in any ~~ways~~ ways acquainted with the entire boundary lying in Virginia of the Fields survey?

A. Yes you might say up to where it was divided at Zack Gibson; that is as far up as I am acquainted with it. They claim it runs up as far as Ely's.

Q-4. State how that boundary of land was timbered in 1878?

A. There was some tolerable timber on it. I noticed where I went over it that there was chestnut and chestnut oak. As I recollect about the timber, it was just like all sides of the mountain, I considered it nice, light timbered mountain land.

Q-5. You do not know how the east end of it was timbered?

A. No sir.

Q-6. Suppose there was 4800 acres of it lying in Virginia, what would you have considered its value in 1878 and in 1881?

A. I do not know what it was worth. Mountain lands at that time were not considered worth anything scarcely. I have ~~kn~~ never been over the east end of it. I could not put a valuation on all of that 2400 acres. I might answer in the language of Edgerly when we were running out the Rose land, which runs part of the way with this land, when he got up on a rock and said he was land poor.

Q-7. What was the difference in the value of this land in 1881 and in 1887?

A. I don't think I could answer that question correctly. It depends on when the boom started up. I know some mountain land sold pretty well, and I know what the mountain land out where I was sold it, but I don't know what this mountain land sold for. It was coal land where I was living.

Q-8. Leaving out or putting in the boom either one you please, tell me what you considered the difference in value in that land in 1881 and in 1887?

A. There was some difference I suppose. It is considered that land always enhances in value every year. At that time there

was an enhancement in the value of the land I suppose.

Q-9. You have given me your opinion as to what that 4800 acres was worth in 1881, and that is, that it was worth very little, now give me your opinion as to what it was worth in 1887?

A. I don't know whether it was worth more in 1887 than it was in 1881. It might have been or it might not.

Redirect-Examination.

Q-1. When was the railroad right of way surveyed for the Cumberland Valley extension of the L. & N. R. R. in and to Cumberland Gap?

A. My recollection is that it was about 1888, but I am not positive about it; that is simply my recollection.

Q-2. Would you fix the beginning of what you call the boom at about the time the railroad surveys were made?

A. Yes, the boom commenced here before the L. & N. extension was made. It began with the building of the Knoxville and Cumberland Gap railroad, but I do not now recollect when it was surveyed.

Q-3. You state that the road from Knoxville to Middlesborough was made before the extension of the L. & N. R. R. was surveyed; as I understand you, these values about Cumberland Gap enhanced about the time of the survey of the Knoxville road?

A. Yes sir, it commenced about that time.

Q-4. State whether or not in 1878 before any railroad was assured or projected into this region, the timber on the mountains was regarded as having any practical value?

A. None on this side of the mountain that ever I heard of.

Q-5. Is it not a fact that about 1888, '89 and '90 a tremendous boom came at Middlesborough on the opposite side of the Gap from the town of Cumberland Gap, which extended also to the town

of Cumberland Gap and the surrounding section, and the price of lands were exceedingly high?

A. Yes sir, prices around here went up high.

Q-6. Is it not a fact that land companies and speculators bought up shortly prior to the breaking out of the boom at good prices the lands around Cumberland Gap and Middlesborough?

A. Yes sir, they did.

(All this re-examination objected to because irrelevant and immaterial, and not affecting the issues in this case.

Duncan and Sewell).

Further deponent sayeth not.

Signature waived.

Also the deposition of J. H. S. Morison, who being first duly sworn, deposes as follows:

Q-1. Please state your age, occupation and place of residence?

A. Age 36, lawyer, reside at Cumberland Gap, Tenn.

Q-2. State how long you have resided at Cumberland Gap?

A. All my life with the exception of 4 or 5 years absence at various ~~schools~~ places.

Q-3. About what years were they?

A. I was absent at college from 1885 to 1889 inclusive. I resided in Knoxville from September 1885 to July 1886.

Q-4. State whether or not you are administrator of Wm. H. New-lee, decd?

A. Yes sir, I was the administrator.

Q-5. I hand you three papers: (1) being an agreement or mem-

orandum dated August 5th, 1878, signed by S. C. Jones and witnessed by T. T. Shumate; (2) being a letter to Wm. H. Newlee signed by J. W. Divine, dated Tazewell, Tenn., March 1st, 1882; and (3) being a letter to Wm. H. Newlee, signed by J. W. Divine, dated Tazewell, Tenn., April 17th, 1883: I will ask you whether or not you found these three papers among the effects of Wm. H. Newlee which came into your ~~pos~~_o possession?

A. I did.

Q-6. I will ask you to file same marked "Exhibits A. B. C." with your deposition?

A. I herewith file same marked as requested.

Q-7. Were you familiar with the signature of S. C. Jones; and if so, can you state whether or not it is his signature to the paper dated August 5th, 1878?

A. I have seen Mr. S. C. Jones' signature a number of times, and I believe that to be his signature.

Q-8. Do you know the signature of J. W. Divine; and, if so, can you state whether it is his signature to the two letters that I have named?

A. I know the signature~~x~~ of J. W. Divine, and those are his.

Q-9. I hand you a letter written to Dr. J. W. Divine, signed Jennie Slauter, dated Cumberland Gap April ____; I will ask you whether or not you were ever a pupil at a school taught by Mrs. Slaughter, and whether you are familiar with her hand-writing; and if so whether you would recognize this as her hand-writing?

A. I was a pupil of Mrs. Slaughter's when I was very young, and began writing lessons under her. As well as I remember this writing is very similar to hers, and I believe it is hers, but it has been so long since I have seen any of her writing that I am unable to say positively that this is her writing.

Q-10. Please file this letter as a part of your deposition marked "Exhibit D"?

A. I herewith file same marked as requested.

Q-11. Can you state the time of the practical inception of the railroad from Cumberland Gap or Middlesborough to Knoxville, Tenn?

A. Actual work did not begin at Cumberland Gap until about February, 1888, but it began in the neighborhood of Knoxville as I understood it from the newspapers at that time in the fall of 1887. There was a vote taken by the city of Knoxville on the question of issuing bonds in August, 1887, and I understood from the papers that work began immediately afterwards in the neighborhood of Knoxville.

Q-12. As I understand, your home was at ~~Cumberland Gap~~ Knoxville from 1886 to 1889, or during the school term you were off at college; is that correct?

A. That is correct.

Q-13. Can you state about the period when the great rise in the price of real estate began at Cumberland Gap and vicinity?

A. It began soon after it was ascertained that there would be a railroad built to the Gap from Knoxville and from Corbin. Property began to increase in value immediately after A. Arthur began to purchase property in this section in about the year 1887, or the latter part of 1886. As I understand it, Arthur and a few associates began the purchase of property with the hope of unloading the same on an English syndicate; that after he secured a great deal of property in this section by options he did proceed to England and organized what is known as the American Association Ltd., and turned this property over to them.

Q-14. The extension referred to from Corbin I believe is now known as the Cumberland Valley Extension of the L. & N. R. R.,

built from Corbin through Middlesborough and Cumberland Gap on through Lee County to Norton, Va., in Wise County, is it not?

A. It is. At that time, however, no definite steps had been taken that I know of towards ^{the} building of this road, but representatives of the L. & N. R. R. were opening coal mines in various sections of Bell County and from that people had an idea that they were to extend their road through this section.

Cross-Examination.

Q-1. Are these all the papers which came into your hands as administrator pertaining to the Newlee lands at Cumberland Gap?

A. They are all that I ever found that bore directly on this question.

Q-2. I will ask you to state whether or not there were any tax tickets which came into your hands as administrator pertaining to the Virginia lands dated after 1878?

A. There were a number of tax tickets among those old papers, but whether they were on this land or since that date I do not remember, as I never paid any particular attention to them.

Q-3. What has become of those tax tickets?

A. I presume they are in the papers which I surrendered to John W. Newlee, Jr., if any ever existed.

Q-4. By way of refreshing your memory, I will ask you ^{to state} whether or not you did not turn over the tax tickets and some other papers to G. B. Cockrell, and if you did not so write to Mr. Ingram?

A. If I so wrote to Mr. Ingram I do not remember it. On more than one occasion Mr. G. B. Cockrell asked my permission to look into those old papers for the purpose of searching for old stamps, as I now remember, and as those papers had been in my possession

for a number of years and nobody seemed to want them or asked for them and my administratorship had been settled, I gave him permission to do so. If he got any tax receipts I do not remember ~~n~~ it at this time. If I ever wrote such a letter to Mr. Ingram I did it while the matter was fresh in my mind, and if I did so it was true.

Q-5. To whom did you ~~xxx~~ deliver the three papers marked A. B. & C. which you have filed as a part of your deposition?

A. These papers were delivered to Maj. Paul E. Divine 2 or 3 months ago. Mr. Divine asked me if I had ever seen any papers among the effects of W. H. Newlee which bore upon the land deal of Divine and Jones. I stated to him that I had seen some papers, and that I had preserved some papers which bore upon that question; that I did not believe that I had possession of them but that I had long since surrendered all the papers to young John G. Newlee and that I supposed that these were among those papers. I stated to him that when I had been giving these papers attention I had put them in a desk which I had not used for a number of years, and that probably they could still be found there if I had not returned them to young Newlee. I stated to him that I did not think the papers that I had would do him any good in any lawsuit he might have regarding this land, but so far as I was concerned he could use them if he desired to do so; that nobody had ever said anything about them. I came home and examined my old desk that I referred to and I did find these papers. I want to state that these papers were not in the old trunk which contained the effects of W. H. Newlee, because I had looked through these papers and separated from them all papers that I could find bearing on these Virginia lands for the purpose of bringing a lawsuit against J. W. Divine for the Newlee heirs to recover this land. I found these papers

and worked diligently 2 or 3 years trying to procure evidence sufficient to bring that suit on the ground as the agreement indicates that Newlee had repaid to S. C. Jones all money which he had paid for this land in accordance with that agreement; that I was never able to find ~~anything~~ evidence sufficient to satisfy myself to bring the suit and I declined to do so, and stated to young John Newlee that I did not think I could recover on the grounds contained in the statement and the facts which he could present, and for that reason I never brought the suit. That suit having been abandoned, these papers remained in my desk, and when the old papers were surrendered to him I had forgotten where these were placed, and, therefore, did not surrender them with the old papers.

Q-6. Were these the only papers turned over by you to Paul E. Divine or J. W. Divine?

A. They are the only papers in any way relating to any transaction between J. W. Divine, W. H. Newlee and S. C. Jones that I turned over to Paul E. Divine or any other person, and they are the only papers bearing on this question that I have ever seen.

Q-7. You have stated in your examination in chief that you were raised at Cumberland Gap, and that you have lived here all your life with the exception named in your deposition when you were at school; will you please state if you are acquainted with the part of the John Jones 1155 acre tract of land lying between the Tennessee line on the south and the Fields line on the north; and if you state you are acquainted with it, please state what would have been its fair value in 1878 and in 1881, including as it did the furnace, the water power, the mill site, or a portion of it, by the acre?

A. I know where the Tennessee line runs. I do not know where

the Fields line runs in the neighborhood of Cumberland Gap, unless it is that line which now exists between the American Association and the Eastern Kentucky Land Co. If this constitutes the land spoken of in your question, it was and still is of very little value except that part which is covered by the water power. I have no way of fixing any value on that water power between 1878 and 1881, because if the land spoken of is between the boundaries as I state it includes very little water power. I could not at this time fix any reasonable estimate on the value of that land. Maj. Newlee (that is John H. Newlee, Sr.) always regarded this property valuable, looking more towards the future possibilities than any existing value. They lived all their life expecting to get rich off of it, and died in the same belief.

Q-8. Did Wm. H. Newlee at the time of his death live in Virginia or Tennessee?

A. He lived in Tennessee.

Q-9. Have you not in your possession as administrator of Wm. H. Newlee, decd. any of his papers relating to this particular land, or of any of his business in a general way?

A. I have not in my possession a single paper of any kind belonging to W. H. Newlee, and I thought when I turned over to John G. Newlee, Jr. his old papers that every paper that I had was included in that bunch.

Q-10. The papers that you turned over to John G. Newlee, Jr., were they the papers of John G. Newlee Sr. or W. H. Newlee?

A. The papers I turned over consisted of old letters which I believe were mostly the letters of John G. Newlee, Sr. I speak of them as the papers of W. H. Newlee because they were enclosed in a small trunk and they were delivered to me when W. H. Newlee died. They were the only papers that I ever received, and the

only papers that I ever had, and when I surrendered them I surrendered every one which I ever received as I thought. It has been about 15 years since I went through those old papers, and I could not state now with any certainty what they did consist of. When I went through them I looked especially for such papers as would discover any estate which W. H. Newlee might have, and any papers which might bear on the land known as the Fields survey, because at that time I was expecting to prosecute a suit against J. W. Divine for the Newlee heirs to recover this very land, and the papers which I filed here are papers which I found I had preserved from the rubbish in the Newlee papers, and they constitute the only papers that I ever found or that I have ever seen, or that I know anything about on this question.

Q-11. How long after the death of Wm. H. Newlee was it until you qualified as his administrator?

A. As I remember it was 3 or 4 days.

Q-12. Who had his papers in their possession and under control until you qualified and took possession of them?

A. I will not be positive, but I believe the evening on which W. H. Newlee was buried that Capt. Paterson and Mr. ~~Edway~~ Caloway, the uncle of John G. Newlee, Jr., placed those papers into my possession and requested me to take charge of them, and keep them until an administrator was appointed. I believe at that time they asked me to go to Tazdwell on the following Monday and qualify as administrator. That is my recollection at this time and I believe it is correct.

I would state further that those papers were not opened by me until after I qualified if they did come into my possession as I state, and I do not think any one else had possession of them from the time of his burial until I qualified as his administrator.

This might not have been the evening on which Newlee was buried, but it ^{may have been} ~~was~~ the evening on which the children left Cumberland Gap with their uncle, Mr. Caloway. As I remember it, it was the same evening as he was buried.

Q-13. Until you got the papers, you do not know positively in whose possession they were or had been from the time of his death?

A. I was not in the house after his death until I took possession of his effects and locked up the doors after his burial. The papers were brought ~~of~~ out of the house and in fact delivered to me, I believe, at my own home. I do not think that I carried them from the house myself. I never saw the papers or the trunk in which they were delivered until they were formally placed in my possession. I do not know who had them, or who had access to them.

Q-14. Did you see a patent and a deed or other papers relating to some Kentucky land among the papers of W. H. Newlee while you had them in your possession?

A. I did see such papers and consulted frequently with John G. Newlee, Jr., about ~~some~~ some old Kentucky patents. They did not seem to be of any value except one. I did see some old patents and they were, I think, in the papers when I surrendered them. If they are not, I do not know where they are.

Q-15. State whether or not you turned over to Paul Divine or J. W. Divine any papers found among the papers of W. H. Newlee relating separately or together to the Virginia or Tennessee lands?

A. There is a slight correction which I want to make in my former statements in regard to this matter. There was, as I now remember since hearing this question, an old unsigned agreement between, as I remember, J. W. Divine, W. H. Newlee and A. L. Greear relating to Tennessee lands. That paper I now produce and file as "Exhibit E" with my deposition.

Redirect-Examination.

Q-1. In whose handwriting, Mr. Morison, is the last paper filed by you, the unsigned one marked "Exhibit E"?

A. That is in the handwriting of W. H. Newlee to the best of my belief.

Q-2. I notice in the letter to Wm. H. Newlee from J. W. Divine dated March 1st, 1882, filed as "Exhibit B" with your direct examination, certain lines in the nature of underscoring in red ink are on said letter; I will ask you whether or not you put those lines there as a private mark?

A. Yes, I put those lines there.

Q-3. In 1878, about how many people lived in the present town of Cumberland Gap?

A. As well as I remember there were not more than 3 or 4 families.

Q-4. Was that substantially the same number as in 1881?

A. About the same.

Further deponent sayeth not.

Signature waived.

Tennessee, County of Claiborne, to-wit:-

I, T. A. Hamilton, a notary public in and for the county afore said in the state of Tennessee, certify that the foregoing depositions of G. B. Lester, J. C. Hamilton, R. F. Paterson and J. H. S Morison were taken and sworn to before me at the time and place and for the purposes mentioned in the caption hereto annexed; and that by agreement of counsel the depositions of J. C. Hamilton and J. H. S. Morison were taken down in shorthand and afterwards ~~xxxxx~~

transcribed and the signatures of said last two witnesses were waived.

Given under my hand and seal this 7th day of May, 1901.

J. A. Hamilton
Notary Public

Notarial charges:

12 hrs. @ 75¢ = \$9.00

Received payment _____ day of _____, 1901.

-----N.P.

Copies of Exhibits filed in the suit of John G. Newlee,
et al. vs. the Eastern Kentucky Land Co.

J. H. S. Morison "Exhibit A".

Whereas I have this day bought at a judicial sale the undivided interest of the heirs of John G. Newlee decd in and to all the lands lying in Lee County Virginia near Cumberland Gap which belonged to said Newlee in his lifetime on which is situated what is known as Newlees Iron Works, for which I have and am to pay the sum of \$482.34 and by an arrangement made with Wm. H. Newlee one of said heirs and myself I am to give him three years in which to redeem said land. Now if the said W. H. Newlee shall within, or at the end of three years from this date pay or refund to me said sum of \$482.34 with such interest as may accrue thereon then I am to convey to said heir the said undivided interest bought as aforesaid, but if said sum should not be paid or returned to me as above stated, then this writing to be void and of no force whatever.

Given under my hand and seal Aug, 5, 1878.

Witness
T. T. Shumate.

S. C. Jones (seal)

(On the back of this paper is endorsed the following:)

August 5th, 1878,

Credit on this agreement Twenty Three (23) Dollars,

S. C. Jones

J. H. S. Morison "Exhibit B".

Tazewell, Tenn. Mar. 1st 1882.

W. H. Newlee

Dear Sir:

Yours of today to hand. In the first place even if Colson would

take the \$300 we cant afford to promise to pay it, for if we buy in the Gap that will be all we can pay, and we may have to make sacraficies to pay that. Uncle Samy seems very undecided, and furthermore he seems unwilling to trust us. So far as I am concerned I dont think I would accept his money, when a man goes so far as to manifest an unwillingness to even not be willing to trust me, when to him everything was made secure, I let him go. With what money you and I can get to pay down, I think we can arrange with H & T. to give us time on the balance, in the event we could not give security. Yet I feel certain that I can give the security, but we might get better time from H. & T. than the decree gives. If Uncle Sam has such unbounded confidence in H. T. P. & so little in us let him cultivate him and when I cannot make no other shift I may call on him.

Ham is not here now he went to court at Maynardsville Sunday last and will not be here before Saturday.

You can say to Jennie that I am not only willing, but would be very glad she would get the money to pay for a 1/3 interest in the Va side, and in the event we buy the Tenn side she can so far as I am concerned have any reasonable time to pay her 1/3 and have that. Yet if we buy it and strip and probably break ourselves up to pay for it we cant or I cant afford to take in or make her a 1/3 interest unless she can help pay for it, nor do I suppose she would ask it. In my opinion anyway it is rather a risky investment for if a R. R. does not come it will never be worth the money. No news in T. all are well.

Yours Truly

J. W. Divine

J. H. S. Morison "Exhibit C".

Tazewell, Tenn. April 17" 1883.

W. H. Newlee Esq.

Dear Sir:

When you was here I did not think to get the calls or boundaries of the Gap lands so as to get a deed. We could get the boundaries of the entire tract; but that you know would include the Va side, and we only want the Tenn side. We could get the a deed covering all the lands without any calls, but the lawyers say it would be better to give the calls. If you have anything you can get the calls of the Tenn side please send it over. No news of interest all are well, write and give the news.

Yours Truly

J. W. Divine

J. H. S. Morison "Exhibit D".

Cumberland Gap April

Dr. J. W. Divine

Sir

It is my understanding that you have bought the Tennessee side of the Gap tract of land & also redeemed the Va. side. Brother has told me that you & he were willing that I should hold an equal interest in both parts provided I paid an equal part. This is what I want to know (if I meet the payments promptly are you and Addie willing to make me a deed to my interest?) For I know that you alone have the power to make me safe. Brother has told me several times that it would ~~be~~ all be right - but I do not want to strip myself of everything to meet the payments unless I have some assurance from you. I think that I can meet the payments and provided I do and you are willing to make the deed - I want

you to let me know the exact amount I have to pay on each debt -
answer this as soon as convenient - as I will have to be up and
doing - all are well - Love to all.

Respectfully

Jennie Slauter

J. H. S. Morison "Exhibit E"

Whereas Dr. J. W. Divine has this day purchased at Comr. sale
the undivided half of the Cumberland Gap property lying in Clai-
borne County Tennessee formerly belonging to Jno. G. Newlee Decd.
Amount of purchase Fifteen Hundred & One Dollars also fifty five
Dollars to reimburse said Divine for a former payment in addition
to be paid to Dr. J. W. Divine, A. L. Greer hereby agrees to go on
bond with said Dr. J. W. Divine and to pay one fourth of the pur-
chase money as it matures and also to pay said Divine fifty five
Dollars, & when the full amount of purchase money is paid said
Divine is to convey to said A. L. Greer one fourth of the Land pur-
chased under decree in suit of James Carr Vs Wm. H. Newlee Admr.
Et al. - in chancery.

It is to be understood by this agreement that said A. L. Greer
is not to force a sale or division of the land by suit or otherwise
unless by the consent of the owners.

Given und

(2)
Eastern Ky Land Co
adog. Depositions

John G. Newlee & et al

Received by Mail in
good Condition and
filed Oct 21st 1901

AB Munsey Clerk

S. A. Hamilton

N P \$9.00

may 7, 1901

The depositions of J. C. Hamilton, J. M.
Hamilton and J. S. Scott taken before
me G. M. Fortner a notary Public
for Claiborne County Tennessee, at
Williams Hotel in Cumberland Gap Tennessee
October 26th 1901, pursuant to agreement
of the parties by their Counsel, & he read as
evidence in behalf of the Eastern Kentucky
Lumber Company, in a suit in Chancery
pending in the Circuit Court for Lee County
Virginia, wherein John J. Newell et al
are plaintiffs and Eastern Kentucky
Lumber Company et al are defendants.
Present C. J. Duncan & B. H. Sumner
attorneys for plaintiffs; and
Paul E. Divine of Counsel for Eastern Ky Lumber Co.,
The witness J. C. Hamilton after
being first duly sworn deposes as follows.

Q 1, Please state your name, age,
residence and occupation?

A 1 J. C. Hamilton, Age 55 years, Shawanee
Tennessee. Farmer.

Q 2 Are you acquainted with G. B. Lester
who has heretofore testified as a

witness in this case, and do you know his reputation for truth and veracity in the community in which he lives?

Ans. I am acquainted with said Lester, and I know his reputation for truth and veracity in the community in which he lives.

Q-3- What is that reputation, good or bad.

His reputation for truth and veracity - is good as far as I know. I never heard anything against it.

Q-4- Judging him by that reputation, would you give his evidence full faith and credit on oath?

Ans. Yes, would give him full credit.

Q-5- How long have you known said Lester; and if you have lived near him, how long and when?

Ans. For about 48 years, and have lived by him as a neighbor all my life.

Cross-examination.

Ques! How many persons have you

heard discuss the reputation for truth
and veracity.

Ans. Cannot now name any particular one
discuss his reputation for truth
and veracity. I have heard the
people say he was good to pay
his debts, ~~he~~ could always get
anything he wanted, & never heard
time refused credit.

Ques. 2. Did you ever hear any body
say Sister was truthful, & if so
whom.

Ans. Have heard the leaders and Jim Scott
say he was truthful, never heard
him considered anything but truthful.

Ques 3. How came the leaders and Jim Scott
to be talking about Sister being a
truthful man.

Ans. Because when ranging stock, if anything was
said about it, they would say that Sister
knew every body's work, and he was truthful
in speaking of it.

Ques 4. Did you never hear his reputation
questioned, or hear of it being questioned for,

truth and veracity—

Ans. I never did until the suit of Julia Hamilton by C. v. Gornett & Co. came up a year or two ago, in some of the Courts in Lee County, Va.

In that suit they picked up the lowest down man in the country to challenge his oath with,

Ques 5. Do you know how many witnesses in that suit did challenge Mr. Lester's reputation for truth and veracity.

Ans. I never heard of but one.

Ques 6. In that suit your son and daughter in law by your son her husband were the plaintiffs and Mr. Lester was used as a witness in their behalf. Is that correct,

Ans. It is

And further this deponent saith not,

J. C. Hamilton

J. M. Hamilton, another witness, of lawful age, after first being duly sworn, deposed as follows:

Q 1. Please state your name, age,

2
residence and occupation or
profession?

Ans. name, J. M. Hamilton, Age 28, Shawnee
Demisee, Physician and Farmer,

Q-2- Are you acquainted with G. B.
Lester who has heretofore testified
as a witness in this cause, and do
you know his reputation for truth
and veracity in the community in
which he lives?

Ans. I know him & also his reputation.

Q-3- What is that reputation, good or
bad?

Ans. It is good.

Q-4- Judging him by that reputation
would you give his evidence full
faith and credit on oath?

Ans. Yes Sir,

Cross-Examination

Ans 1- How many persons did you ever hear
discuss his reputation.

Ans. I have heard several speak of his reputation
for truth & veracity - since said Lester
testified in said Hamilton Suit.

I used ^{name} the following: Jim Starnes,
Robert Lingas, N. A. Worely, John
Suavey - J. A. Hamilton, J. B. Hamilton
Sr. & Jr., George Williams, Henry
William & F. C. Brooks, and ~~W. H. Eads~~
W. H. Eads, are about all that I can
now remember. All these spoke
well of him, except W. H. Eads,
and further this deponent said not,
J. M. Hamilton

State of Tennessee County of Claiborne
I G. W. Fortner a Notary Public
in and for Claiborne County in the
State of Tennessee do certify that the
 foregoing depositions of J. B. Hamil-
ton & J. M. Hamilton were taken
sworn to and subscribed before me
at the time and place and for the
purpose mentioned in the caption
Given under my hand and official
Seal this the 26th day of October 1901
G. W. Fortner, N. P.

E. My Land up
and 3 Lipo
J. G. Hawley for it also

Received from C. T. Duncan
in good condition and filed
October the 28th 1901
A. B. Munsey Clerk

Notarys fee \$1.50
Witnesses $\frac{1.00}{\$2.50}$

Oct 28, 1901

The deposition of J. A. Hamilton
and John Sweeney taken before
me G. W. Foster, a Notary Public
for Claiborne County Tennessee
pursuant to notice hereto annexed
at Williams Hotel, Cumberland Gap
Tennessee, on the 18th day of October
1901, to be read as in behalf
of the Eastern Kentucky Land Co. &
Maggaret Ely, Ann Ely, W. O. Allen
and Mary Allen his wife, defend
ants in a certain suit in Chancery
now pending in the Circuit Court
for Lee County Virginia, wherein
John G. Newlee and others are plaintiffs
and the Eastern Kentucky Land Co. and
others are defendants,

Present C. J. Duncan & B. Sweeney
attys for Plaintiffs, and
Paul E. Divine of counsel for said
Company & Elys —

J. A. Hamilton, being first duly sworn
deposes as follows: —

Sworn to,

Please state your age, occupation

and place of residence:

Ans. Age 60, Farmer, Shawano
Jackson Co. Tenn,

Q 2 Are you acquainted with G. B.
Lester, who has heretofore testified as
a witness in this cause, and do you
know his reputation for truth and
veracity in the community in which
he lives

Ans. I know him, I think I know said
Lester's reputation for truth and verac-
ity in the community in which he
lives.

Q-3- What is that reputation, good or
bad.

Ans. It is good I think.

Q-4- Judging him by that reputation would
you give his evidence full faith and
credit on oath?

Ans. I would.

Q-5- How long have you known said Lester,
and if you have lived near him, how
near and how long?

Ans. I have known said Lester for forty five

or fifty years, During all this time
I have lived from one fourth to one and
one half miles near him.

Q 6. What official positions have you
held, if any, in Claiborne County?

Ans. I have been a justice of the peace
for twenty four consecutive years,
and a chairman of the County Court
for said time during said time,
holding at one time for one year
and the other time six months.

Cross Examination.

Ques 1. Is your opinion ~~from~~ the repu-
tation of S. B. Lester made up from
your own personal knowledge of
the man or from what his neighbors
say of him.

Ans. It is from both, what I know & what
the neighbors say of him.

Ques 2. How many of his neighbors have you
ever heard discuss Mr Lester's rep-
utation for truth & veracity?

Ans. I have heard five or possibly more.

Ques 3, How many people live in the community in which G.B. Lester lives, taking a radius of one mile and a half each way from his residence

Ans, I would think it would probably take in one hundred and fifty-

Ques 4, What was the occasion of the discussion of Mr Lester's reputation for truth & veracity by the five or more persons that you have heard discuss it.

Ans, Maurice Bamber & George Epps, witnesses in the case of Lula E. Hamilton vs Bonnett Ely, lately pending in the County Court for Geo. Va., had sworn that they would not believe Mr Lester on oath, & that caused the discussion by said persons.

Ques. How you may tell who the persons were you heard Mr Lester's character for truth & veracity discussed by.

Ans. J. M. Hamilton, J. C. Hamilton, J. S. Scott, & Henry Williams,

Ques. What was the relationship of these parties or any of them to Lula

E Hamilton & her husband, who died
~~Ans.~~ As her next friend
can J. M. Hamilton was her husband,
David J. B. Hamilton her father-in-
law. She other were in him.
And further this document says not
J A Hamilton

Another witness, John Suavey,
deputy first deputy sworn, deposes
as follows.

Ques 1. Please state your age, occupation
and place of residence.

Ans Age 39. Farmer, Shawnee Tenn.

Q-2 Are you acquainted with G. B. Porter
who has heretofore testified as a witness
in this cause, and do you know his
reputation for truth and veracity in the
community in which he lives?

Ans. I am & have been acquainted with said Porter
for ten years or more. I know & I would
state that I do know his reputation for
truth & veracity in said community.

Q 3- What is that reputation, good or bad?
Ans. It is good.

Q 4 Judging from by that reputation would
you give his evidence full faith and
credit on oath?

Ans. I think I would Sir.

Q 5 Are you acquainted with W. G.
Calson who has heretofore testified
as a witness in this cause, and do
you know his reputation for truth
and veracity in the community in
which he lives?

Ans. ~~I am acquainted with~~

I withdraw the foregoing question.

Paul E. Quinn. Sec.

Cross-examination.

Ques 1. How many persons did you ever hear discuss
the reputation of W. G. Calson for truth
& veracity - who were they?

Ans. I believe J. C. Hamilton, J. B. Hamilton and
J. A. Hamilton are all ~~I believe~~
I have heard say anything about his repu-
tation for truth & veracity.

These men say that Sisto has done a great deal of work for them & he has lived with them some,

Quesz What was the occasion of these men discussing his reputation for truth and veracity,

Ans. In regard to his work, and his promises in regard thereto. And further this deponent said not.
John S. Snowy

State of Tennessee }
Claiborne County } Court:

I G. W. Fortner, a Notary Public for the County and State aforesaid, do hereby certify that the depositions of J. A. Hamilton and John Snowy were duly taken sworn to and subscribed, before me at the time and place and for the purpose in the Caption hereto mentioned.

Given under my hand and Notarial Seal, this the 24th day of October 1901.
G. W. Fortner, N.P.

Esq Land Co (5)

Depts of Depo.

John G Newell for it also

Oct. 13, 1881

Colon's fee 2 Hrs. \$1.50

To C. T. Duncan & B. H. Sewell, attys for
Pltffs vs Geo P. Cridlin, G. A. L.

Take notice, That we shall, on the 18 day of Oct 1890
at Williams Hotel in Cumberland Gap Tenn
between the hours of 8 A. M. and 6 P. M., on that day, proceed to take the
depositions of James Catwell and others, to be read in evidence in
our behalf, in a certain chancery suit depending in the Circuit
court for the County of Ky Va wherein you are defendant Pltffs
vs John H. Newley, Dr et al
and we are Defts; and if, from any cause, the taking of the said depo-
sitions be not commenced on that day, or, if commenced, be not concluded on that day, the
taking of the same will be adjourned and continued from day to day, or from time to time, at the
same place and between the same hours, until the same shall be completed.

Respectfully yours,

E. Ky Land Co.

by Cumel

John G. Newlin et al

vs.

}

NOTICE TO TAKE
DEPOSITIONS.

E. K. Land Co. et al

p. q.

Legal Service
of the within notice
is accepted. This
October 8th 1901.

C. J. Duncan

B. H. Duncan

Atty for pebb

1
The deposition of C. B. Johnson and others, taken before me, J. H. Quillen, a Notary Public for Claiborne County, Tennessee, on the 29th day of October, 1900, at the Williams House, in Cumberland Gap, Tennessee, ~~pursuant to a~~
~~agreement of the parties~~, to be read as evidence in behalf of the de-
fendants, ^{the Eastern Kentucky Land Co.} in a certain suit in chancery pending in the Circuit Court for Lee County, Virginia, wherein John G. Newlee, Jr., and others are plaintiffs and the Eastern Kentucky Land Company, ~~et al~~
~~are defendants~~, taken without notice, but pursuant to agreement as to plaintiffs and defendant, the Eastern Kentucky Land Company, by counsel;

Present: C. J. Duncan, atty for
plffs & R. T. Irvine

& Paul Divine, of counsel for
E. Ky. Land Co.

C. B. Johnson, a witness of law-

ful age, being first duly sworn,
deposes as follows:

Ques. 1. - Please state your
age, residence and occupation?

Ans. - I am 65 years of
age, reside in Lee County,
near Cumberland Gap, occu-
pation, farmer, formerly en-
gaged in surveying -

Ques. 2. - Are you acquainted
with the Fields 7080 acre patent,
the Jones 1155-acre patent,
and the Beatty & Chadwell 100
acre patent located at and
near Cumberland Gap?

Ans. - I ~~do~~ am tolerably well
acquainted with the Fields 7080
acre patent, and very well
acquainted with the Jones 1155-
acre patent, but never sur-
veyed the Beatty & Chadwell 100
acre patent and know nothing
about the same except from
hearsay.

Ques. 3. - How long have you known the Fields & Jones lands?

Obj. - The foregoing question and any answer thereto in so far as the Jones lands are concerned is objected to be - cause irrelevant and immaterial, no part of the Jones land being in controversy in this Suit.

Duncan for Plffs.

Ans. - I have known them since they were divided between the Ely heirs & Dr. Divine - I knew the Fields land was on the side of the mountain before that time, but did not know the lines until the division. Neither had I been along the lines of the Jones land until about that time. The division mentioned was made about 1886 or 1887.

I surveyed that part of the Fields lands lying in Virginia at the time of said partition.

Ques.- State whether or not you know in a general way the location of the Beatty and Chadwell tract?

Ans.- I do.

Ques.- I hand you a blue-print map which I will ask you to file with your deposition as exhibit "X", and state whether or not this gives the relative locations of the three tracts of land mentioned with reference to the Cumberland Gap and the boundary lines between the three states of Ky., Tenn., & Va.?

Ans.- I file said map, marked as requested. Said map does show the relative locations of the Fields and Jones tracts with reference

5.

to Cumberland Gap and the State lines; as to the Beaty & Chadwell tracts I can't say as I never surveyed same. I have read the lines of the Beaty & Chadwell patent and from reading them I would say this location is correct to the best of my knowledge. Various corners of this tract have been pointed out to me on the map.

Ques. - State the nature of the lands embraced within the lines of the Fields tract in Virginia, how long you have known it, and what actual possession thereof, if any, you knew prior to 1887, the time of the purchase by the E. Ky. Land Co.?

Ans. - It is along the south side of the mountain, mostly in woods, and along about Lewis' Gap were some small

pieces from which the timber
had been cut, as I was told,
by John G. Newlee, ^{Esq.} to make
charcoal, and there were
some small houses and
lots, I think one or two, one
I know, and I think there
were two, at that place.
I have been told the Fields
land lay along the side of the
mountain since shortly after
the war of '61-'65; and that
Elys claimed the East half
& ^{or his assignor, John Beale,} Newlee, the West half.

~~I saw a partition agreement~~

Ques. → Do you remember
when Samuel B. Jones bought
an interest in the Fields sur-
vey?

Objected to because there
is no evidence offered that
Mr Jones ever bought any
such interest and the ques-
tion presumes a state of

facts to exist that are not
proven and that never had
existence.

to T. Duncan, for plffs,
Ans. - I do not ~~remember~~ the
time only by hearsay. I do
not know only by hearsay that
he bought any land on the
mountain. I had heard
that said Jones had bought
a part of the Fields land a
year or two before I made
a survey on partition. I was
told this by Dr. Divine and by
others whose names I do not
now remember.

Obj. - The foregoing answer,
or that part of it which details
what he was informed by
Dr. Divine & others is objected
to because inadmissible hear-
say, and inadmissible for
any purpose.

to T. Duncan for plffs.

Ques. - State whether or not S. C. Jones after the time of said reputed purchase and before his sale to Dr. Divnie put any improvements on the Fields land, and if so, what?

Objected to because the report of the sale to S. C. Jones shows that the purchase by said Jones of the Newlee land was made for the Newlee heirs.

C. I. Dumeau for plffs.

Ans. - Before Dr. Divnie bought it there was a stable and a crib put on the Fields land along the Va. road. I saw Jones' boys putting corn in the crib, and ^{they} said their father had built it there. I do not know the date of the reputed purchase by Jones, or whether said buildings were put there before or after said reputed purchase.

X - Examination.

1 Ques. Please take the map which you have filed as a part of your deposition marked "X" and designate by a cross mark on it, the point at which said crib stood

Ans. I have marked the place where I think it stood with a cross in pencil and have written the word "crib" to designate it.

2 Ques. The place you have designated is inside the Beatty and Chadwell grant, as laid down on said plat is it not?

Ans. - It is.

Ques. - Did you ever hear tell of the Fields survey until about the time you were called on to survey it and partition it in 1887, If so from whom?

Ans. - I did from a number of citizens who were cutting timber off the side the mountain and said it came off the Fields land.

3 Ques. When did you first hear of the Fields survey and from whom?

Ans. - I can't tell the first time
but it was a number of years
before I surveyed it. Old Wm
Ball told me he bought a part
of the Fields Survey from Robt
Ely and Robt. Ely told me he
had ~~shown~~ sold some of it to
Mr. Ball - Mr Ball has been
dead 12 years or a little more.

4 ques. You say that Robt Ely told you that
he had sold a part of the Fields 7080
acre tract to William Ball. Do you mean
old Robert M Ely?

Ans. - I mean little Robt Ely.
He told me he had sold a part
of this Fields 7080 & aere survey
to his grand father Wm Ball for
some horses.

5 Question. In the partition which you
made of said land, did you take any
account of the land sold off by Robt
Ely to his Grand father and did you
designate it an said plat?

Ans. - I think I did, and I think the plat will so show.

6 ques Did you then divide the balance of said tract after taking off the part sold by said Robt Ely to said Ball, and state the number of acres so sold by said Ely to said Ball

Ans. - We did so divide it; and I think the part sold to Ball by Ely was about 300 acres.

Rz Direct

Q. 1 I see you state in your Cross Examination that the place you mark as the site of the crib is on the Beaty & Chadwell patent. How you run the call, courses and distances of the Fields patent, and if so, is or is not this crib site also within the Fields survey boundary.

Ans. It is in the Fields, and also in the Beaty & Chadwell as shown by the plat.

And further witness saith not.
E. B. Johnson

G. B. Cockrell, another witness,
being first duly sworn, deposes
as follows:

Ques. - Please state your
age, name, residence and
occupation?

Ans. - I am 60 years old,
reside in Cumberland Gap, Va.
and am Manager of the E.
Ky. Land Co.

Ques. - I hand you a
copy of the record of the chancery
suit in the Circuit Court of
Lee County, Va, of Wm G. Brown
vs. Peyton Swab et al, and
also of Smith Crabtree vs.
Thos. A. Ely, Admr et al.; also
a certified copy of a deed from
David Miller, Commr. to S. C. Jones,
dated Jan'y 1st 1880, and a deed
from S. C. Jones wife to J. W.

Divine, dated Sept 28 1881,
and will ask you to file same
with your deposition marked ex-
hibits "A", "B", "C" + "D" respectively.

The foregoing question and any answer
thereto is objected to, because there is nothing
to show that said records so offered to be
filed have any connection whatever with
The tract of land sought to be partitioned
in this suit. Said Records are indef-
inite and uncertain, and said deeds
are likewise indefinite uncertain and
in no way refer to the land in dispute.
The filing of said papers are immaterial
and irrelevant to the issue, and are
not admissible for any purpose.

I am for Peff

Ans. - I file same, marked as
requested.

Ques. - How long have you been
acquainted with the land in con-
troversy in this suit?

Ans. - 13 years; my company,
The E. Ky. Land Co., bought it

from J.W. Divine Oct 22, 1887, &
the deed was made Decr. 19, 1887
as shown by exhibit in this cause.

Ques.- Are you acquainted
with the John Jones 1155-acre
patent and the Beaty & Chadwell
100 acre patent as well as the
Fields 7080 acre patent?

Ans.- I am acquainted with
all three of said patents. I have
been along when they were sur-
veyed and have surveyed a part
or parts of them myself. All the
lines of the Beaty & Chadwell pat-
ent cannot be surveyed only by
protraction on account of the
roughness of the mountain.

Ques.- I show you a blue-
print map marked "X" with
the deposition of L.B. Johnson
and ask you if this map
correctly lays down the three
tracts in question with reference
to one another and Cumberland

Gaps and the boundary lines
of the Three States of Ky.,
Tenn., & Va.?

Ans. - Approximately so.

Ques. - ~~Please mark~~ I
see on the map a dotted line,
shaded red, extending from
the letter "I" westward to "J",
thence a little northwest to "K".
Please explain what those
lines are and their location
with reference to them of the
Fields and the Jones tracts res-
pectively?

Ans. - The red dotted line
represents a part of the compro-
mise line between the E. Ky. Land
Co. & the Am. Ass'n. and is one
and one-half poles south of
the line claimed by the said Am-
Ass'n. as the northern line of
the 1155-acre ~~survey~~ Jones survey
and the $1\frac{1}{2}$ poles north of what
the E. Ky. Land Co claimed as the

South line of the Fields 7080
acre survey. "I" is a point
at the Spring Branch called for
in the Fields ~~survey~~ patent & "J"
is one hundred poles west. The
line from "J" to "K" is with the calls
of the title papers to the top of
the mountains. The Fields lands
in Virginia lie North and East
of the lines "I" & "J." "K" respect-
ively; the Jones land lies
south of the Fields line "J" and
east of the line "D" & "E".

Ques. - Land lying at, East,
& South of Cumberland Gap would
be in the Fields Survey if I un-
derstand your explanation cor-
rectly?

The foregoing question and any answer
thereto, is objected to because it asks this
witness to give an opinion, as to what
lands such a description would embrace
and his opinion of the construction of
the deed made by Miller to Jones.

I mean for Puff.

Ans. - It is, and southwest also.

Ques. - Please state the character of the land embraced in the Fields survey and what improvements were on it when your company bought it?

Ans. - It is a very rough and mountainous with a rocky bluff ~~775~~ 100 to 200 feet high running about the middle of tract, mostly all in timber. There was one small cabin with a few acres of cleared land at Lewis' hollow, two saloons and an old dwelling, crib and stable in the Gap.

Ques. - Please state whether or not your Company has had this land in possession since you bought it? And if so, describe the character of the possession?

Ans. - We have had it in

quiet and peaceable possession
since we bought it except as
to the dispute with Am. Ass'n as
to location of South line, and
that was settled July ^{12th or 13th} 1888.
We enclosed the south line by a
fence commencing on the next day
and completing it as soon as we
could between the said Survey &
The John Jones Survey. We have
built various houses on it and
at various places, on the East
end west end, in the Gap and
at other places. We have laid
off a part of it into town lots
at Cum. Gap, have sold about
12 lots on some of which houses have
been built by purchasers. We
have been receiving the rents issues
& profits of said land since our
purchase. Our possession
has been continuous, uninterrupted
and undisputed except as to a
controversy in regard to the tunnel.

but this did not involve the title to the Fields survey as a whole, but only to the right of way for the tunnel.

Ques. - I see marked on the map a Cave Spring and a branch running from it Southwardly. Please locate the old Iron Foundry and mill with reference to that branch and to the south line of the Fields tract.²

Ans. - The old mill is at the point where the State line crosses said branch and I have written in pencil the word "Mill" at said point. The Furnace is north of the mill and I have written the word "Furnace" at said point. The furnace is about 50 yards below or south of the Fields line, and the mill is about a 100 yards further down the branch. The spring is about 550 feet north of the Fields line and within the Fields survey. Said spring is the source of the water power for

said mill and furnace.

Q. Is the Samuel C. Jones mentioned as the purchaser of the Newlee lands at Jonesville Va., living or dead?

Ans. He has been dead several years.

Ques. Is the George Jones, son of Samuel C., mentioned by E. B. Johnson, living or dead.

Ans. He has been dead about six weeks.

Ques. I will ask you to refer in your deposition to the chancery suit for partition in Lee Cir. Court by J. W. Divine vs. Ely heirs, as a part of the same and also to file as exhibits "E" & "F" respectively certified copies of the deed from J. W. Divine wife to the Ely heirs and A. H. Pride-
more, Commr. to J. W. Divine.

Obj. — The foregoing question and any answer thereto as well as the papers referred to and the deeds asked to be filed are objected to as evidence against the plaintiffs because they were not parties to said suit, or to said deeds, were infants at the time said proceedings were had and were in no way affected or bound by said proceedings.

C. I. Duncan, for plffs.

Ans. — I refer to said suit, and will file said copies marked as requested.

Cross-Examination.

Ques. 1. — In answer to a question propounded to you on your examination in chief you say you have sold lots received rents, &c. Will you please make out and file as a part of your deposition an exact statement of the ~~particulars~~ of lots sold, the price and amounts received the rents collected, amounts received for coal stone and from all other sources?

~~Amos~~ Objected to as not
having a foundation in the an-
swer filed and the information
sought is unnecessary at this stage
of the proceedings.

R. T. Irvin & Paul Divine
of counsel for deft
Ans. E. Ky. Law Co.

Ans. - I will if the Court di-
rects it.

And further this witness saith
not.

G. B. Cockrell

State of Tennessee }
County of Claiborne }

I, J. H. Quillen, a Notary
Public for said County and
State, do certify that the fore-
going depositions of E. B.
Johnson and G. B. Cockrell
were duly taken and sworn
to before me at the time and
place and for the purpose

therein mentioned.

Given under my hand and
official seal this 29th day of
October, 1900. J. H. Quillen
A.P.

November 13 - 1900. It is agreed on be-
half of the defendants John Hopkins, Alice
Fleeman, Wm. Fleeman, Wm. Slaughter
Wm. Good, Irene Good & Laura Bradford
that the foregoing depositions of C.B. John-
son & G.B. Coakley may be read as to them
as though they had regularly accepted no-
tice of the taking of the same, or had
appeared by counsel at the taking -
subject to all exceptions for incompetency, irrelevancy
and immateriality. H. Gleason, Attorney.

Legal service of notice of the taking of the fore-
going depositions is hereby accepted

Geo. P. Bridline
Guardian ad Litem for Infant
Daughters Wm. & Irene Good

E. Ky Land Co
and 1/2 D. Co.

Jno G. Ansell Jr it as
Received from C. S. Duncan
and filed October 30th
1900.
A. B. Munsey Clerk

no 1

The deposition of H.J.Morgan taken pursuant to agreement at the office of C.T.Duncan in the town of Jonesville on the 7th day of November, 1901, before me Geo.P.Cridlin, a notary public in and for Lee ~~xxix~~ County, which deposition is intended to be read as evidence on behalf of the plaintiffs in a certain suit in chancery now pending in the Circuit Court of Lee County Virginia in which John G.Newlee et al are plaintiffs and the Eastern Kentucky Land Company et al are defendants.

W.G.Colson

B.H.Sewell and C.T.Duncan attorneys for plaintiffs; T.T.Irvine and Paul E.Divine.
vine of counsel for defendant.

H.J.Morgan a witness of lawful age after being duly sworn deposes and says.

Q.1.-- State your place of residence, age and occupation.

A.-- I reside at Jonesville, Lee County Virginia, I am past 74 years old, and am retired lawyer and Banker.

Q.2.-- State whether or not you are the same Henry J.Morgan who was appointed as a commissioner in the Chancery cause of Smith Crabtree against Thomas S.Ely Administrator &c et al decided some time ago in the Circuit Court of Lee County, Virginia, and the same H.J.Morgan who made a report in said cause and the other causes brought on to be heard with it?

A.-- I am the same Morgan who was appointed the commissioner and made the report in those causes.

Q.3.-- As shown by the decree under which you were appointed as commissioner in said cause among other things that you were to do you were to ascertain and report the debts of the decedent John G. Newlee and also to ascertain and report what lands he owned in Lee County Virginia at the time of his death. I will now ask you to state if the lands shown by your said report are all the lands that you ascertained to belong to the said Newlee in Lee County Virginia at the time of his death?

Obj.-- The foregoing question is objected to because the decree ap-

pointing said Commissioner and the report of said commissioner are the best evidence and the said Commissioner cannot be heard to modify or explain, to vary or to contradict his said report.

E.T.Irvine and Paul E.Divine attys.

A.-- My recollection is that I examined the land books of the Commissioner of the Revenue and found no other lands charged to said Newlee except the tract of land in my said report mentioned. I think that before the taking of the account referred to I had learned from some source or other that John G.Newlee was the owner of an interest in a large survey of land which he had acquired in some way from John M.Beaty, Britton Poteet, Robert M.Ely, or Henry C.Tyler, I don't remember which of them, and I remember the fact that when I come to examine the Commissioners' books for the lands belonging to John G.Newlee I was a little surprised to find only 75 or 80 acres charged to him in this County, and I supposed that his other lands lay in the state of Tennessee.

Q.4.-- I now show you a paper purporting to have been executed on the 5th day of August, 1878 and signed S.C.Jones (Seal), which paper was filed as exhibit No.3 with the deposition of J.H.S.Morison, which deposition was taken by the defendant about last May to be read as evidence in their behalf, and I will ask you to state if you know in whose hand writing said paper is and also if you know to state where said paper was drawn and at whose direction?

A.-- Said paper was drawn ^{by me and} is in my hand writing. As well as I recollect it was drawn up and signed in the town of Jonesville, the time it bears date; and I also, think, though I don't recollect the matter distinctly, that the paper was drawn up at the direction of S.C.Jones and William H.Newlee.

Q.5.-- I see on the back of that paper the following "August the 5th, 1878, credit on this agreement Twenty-three (23) Dollars. S.C.Jones". State if you know in whose hand writing that endorsement is and whether or not the signature "S.C.Jones" is in the proper hand writing of Mr. Jones?

A.-- I can't state in whose hand writing the said credit is endorsed, but I am well satisfied in my own mind that the signature thereto is the genuine signature of S.C.Jones.

Q.6.-- On the day this instrument was drawn up, the same being the day upon which the land of John G.Newlee was sold by Commissioners Miller and Duncan, was there any other of the heirs of John G.Newlee present except William H.Newlee?

A.-- If there were any of them present except William H.Newlee I do not remember it.

Cross Examination.

X.Q.1.-- As we understand, Judge, in reporting on what lands belonged to John G.Newlee's estate, you merely looked to the Commissioner's books and took that as your own idea of what he owned and so reported. Is that correct?

A.-- It is correct.

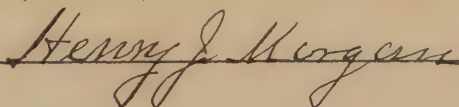
X.Q.2.-- The Paper referred to in your direct examination dated August 5th, 1878, is witnessed by T.T.Shumate. Can you state whether or not Shumate was at Jonesville on the occasion named, or whether the paper was signed at Cumberland Gap and witnessed there by Shumate?

A.--I do not remember that Shumate was present at the time the paper was drawn, and I do not know his signature. I do not know whether it was signed here or at Cumberland Gap, or where it was signed.

X.Q.3.-- Did Shumate live in Cumberland Gap?

A.--I can't state positively how that was, but I think he either lived in Cumberland Gap or only a short distance this side in Virginia.

And further this deponent saith not.



C.T.Duncan another witness reintroduced by the plaintiffs deposes as follows:

Q.1.-- I will ask you to state whether or not you are acquainted with the iron works property mentioned and referred to by Judge Henry J. Morgan, Commissioner, in his report, and if you are state on what tract of land said iron works property was situated.

A.-- I have had pointed out to me at various times by Dr. Divine and others the old furnace or iron works property formerly belonging to John G. Newlee or on property claimed by him at Cumberland Gap, or rather at the foot of the mountain on the south side from Cumberland Gap, also the old Mill property also owned by him. My information is that both the mill property and the furnace are on what is known as the John Jones 1155 acre tract.

Q.2.-- State whether or not that the said iron works property is situated within what is known as the lines of the Fields survey?

A.-- It is not. I have seen the lines of the Fields survey run along the mountain at that place. The iron works, furnace or foundry, is some distance south of the south line of the Fields survey, and some distance south ~~of~~ the north line of the John Jones 1155 acre tract. ^{little} Said old furnace or iron works is some distance ~~from~~ north of the Virginia and Tennessee state line.

And further this deponent saith not.

C. T. Duncan

Virginia, Lee County, to-wit:

I, Geo. P. Gridlin, a notary public in and for the County of Lee in the state of Virginia, do certify that the foregoing depositions of H. J. Morgan and C. T. Duncan were taken, sworn to and subscribed before me at the time, place and for the purpose in the caption mentioned.

Given under my hand this the 7th day of November, 1901.

Geo. P. Gridlin N.P.

^{Jeff}
John S. Newlee et al
vs. } Depo.

E. Ky. Land Co. et al

1011.

H. J. Morgan

E. T. Duncan

Received of Geo. P. Crid-
lie, m^r. taking same
and field, this

Nov. 7, 1901

A B Munsey Clerk

Geo. P. Cridlie m^r.
fee for taking these depo
(25) / hr. 75

In the Clerk's office of the Circuit Court of the County of Lee.

John G. Newlee Jr. and others ----- Plaintiffs.

against

The Eastern Kentucky Land Co. a corporation, and others --Defendants

This day William H. Ingram personally appeared before me Charles
Gragg, a Notary Public in and for the County of Bell in the
State of Kentucky, and being duly sworn made oath that Laura Bradford,
and Fred Bradford, her husband; John Hopkins; Alice Fleman, and William
Fleman, her husband; William Slaughter; William Good; and Irene ~~John~~ Good,
defendants in said suit are not residents of the state of Virginia.

Given under my hand and official seal, this the 8th day of September,
1899.

Charles Gragg N.P.
Com. expires 2-3-1901.

John G Newland et al
vs } affidavit

The Eastern Ky land Co

Filed Sept the 12th 1899

A. B. Munsey Clerk

This Indenture made and entered into
on this the 19th day of December, 1887 by
and between J. W. Divine and wife
Ada M. Divine of the County of
Claiborne and State of Tennessee of
the first part and the Eastern Kentucky
Land Company of Mount Sterling
Kentucky of the second part, Witnesseth
That the parties of the first part for
and in consideration of the sum
of Twenty thousand dollars, Ten
Thousand in hand paid the receipt
whereof is hereby acknowledged by
the parties of the first part, and ten
thousand dollars to be paid on or
before the 22nd day of October 1888, for
which sum of ten thousand a note
has been executed bearing even date
with this instrument bearing no
interest until due, The said parties
of the first part have this day bargained
and sold and by these presents
transfer and convey unto the party
of the second part all the right
title, claim interest and demand
they have in and to the following
described tract or parcel of land
lying and being in the County

Lee and State of Virginia on the
waters of Indian and Sap Creek, and
being the west end of the Nathan Fields
survey conveyed to the parties of the first
part by A. L. Pridemore as sepecial
Commissioner and is bounded as
follows, Beginning at a stake on the
Virginia and Kentucky line west of
Cumberland Gap, thence S 19 E. to a
stake in Arthur Campbell's line thence
N 88 E passing the corner of the Jones
survey and with the line of said
survey 310 P to a stake on the west
side of a branch corner with Dr.
Morrison, thence N 23 E to two small
pines in the Baker valley, thence
N 38 E 333 P to a spotted oak, thence
N 88 E 9 1/2 P to a poplar, thence N 88 E 287
P. to two white oaks on a spur, thence
N 72 1/2 E 299 P to a poplar stump in
the edge of a valley (poplar down and
a white oak marked in line of it) thence
N 63 1/2 E 266 P to a white oak Chestnut oak
and maple a corner made as the
Divisional Corner between J. W. Divine
and the heirs of R. M. Ely thence N 24 1/4
P to a stake on the Virginia and

Kentucky line, with a black oak and hickory marked as pointers, thence with the Virginia and Kentucky line along the top of Cumberland Mountain westwardly with a line recently run by General Duffield under orders from the United States Circuit Court, to a pine on the edge of a cliff, thence S 57 W to the beginning. But it is expressly understood that the line between the two States shall be the true line wherever and when ever established. Also one other lot piece or parcel of land lying on the Virginia and Tennessee line containing the Carding Machine and mill site where it now stands with the reservation of water power also the reservation of one half interest in sixty feet square as shown by the deed of the parties of the first part to A. A. Arthur Trustee registered in the registers office of Claiborne County Tennessee, To have and to hold the premises herein described with all and singular their appurtenances to the said party of the second part their heirs and assigns with title

of general warranty forever. And the parties of the first part covenant with the party of the second part that they are lawfully seized and possessed of said lands and that the same are unencumbered, But it is understood that the parties of the first part only quit claim their interest in that portion of the first tract herein conveyed lying west of a North 19 West line from the North West Corner of the Jones eleven hundred and fifty five acre survey, But a lien is expressly retained upon the lands herein conveyed to secure the payment of the note executed for the purchase money yet due, In testimony whereof the parties of the first part have hereunto set their hands the day and date first above written.

J. W. Divine
Ada M. Divine.

State of Tennessee }
Claiborne County }

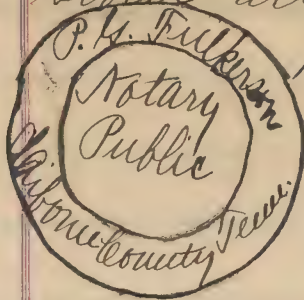
I, P. H. Fulkerson a Notary Public for the County aforesaid and State aforesaid do certify that J. W. Divine whose name is signed to the within

writing bearing date on the 19th day of
June 1887 has acknowledged the same
before me in the County aforesaid.

Given under my hand and seal this

19th day of December 1887.

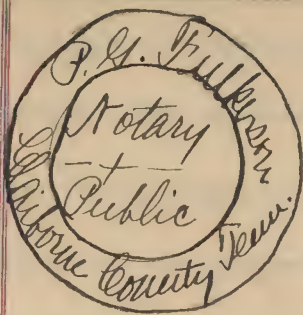
My term of Office expires June
1st, 1892.



P. G. Fulkerson Notary
Public for Claiborne Co. Tenn.

State of Tennessee {
Claiborne County}

I, P. G. Fulkerson Notary Public for
the County and State aforesaid do
certify that Ada M. Divine the wife
of J. W. Divine whose names are signed
to the within writing bearing date the
19th day of December 1887, personally
appeared before me in the County
aforesaid and being examined by me
privily and apart from her husband
and having the writing fully explained
to her, she the said Ada M. Divine
acknowledged the said writing to be her
act and declared that she had willingly
executed the same and does not wish
to retract it. Given under my
hand and seal of Office the 19th
day of December 1887. My term



of Office expires June 1st 1892
P. H. Fulkerson

Notary Public for
Claiborne County Tennessee

Virginia Lee County Court Clerk's
office the 21th day of Dec. 1887, The
foregoing deed bearing date Dec. 14th
1887 between J. W. Divine and Ada M.
Divine of the County of Claiborne in
the State of Tennessee of the first
part and the Eastern, Kentucky Land
Company of the second part, was this
day filed in this Office and
admitted to record upon the Certificate
of P. H. Fulkerson Notary Public for
Claiborne County Tennessee.

Teste, John R. Gibson Clk.

(The following indorsement is on the
margin)

Mr. John R. Gibson Clerk Lee County
Jonesville Va. You are hereby authorize
to enter a release upon the margin
of deed from myself and wife to the
Eastern Ky. Land Co. of Mt. Sterling Ky.
as the deferred payment has been
paid in full Payroll Tenn.

Jan. 8th 1889.

J. W. Divine

A copy Teste J. R. Gibson Clerk

Virginia, Lee County Court Clerk's
Office January 9th 1889.

I, John R. Gibson Clerk of Lee
County Court do Certify that the foregoing
writing from J. W. Divine was this
day received through mail and entered
upon the Record.

Teste John R. Gibson Clerk.

Virginia, Lee County to wit:

I, B. M. Morgan Clerk of the
County Court for said County, do
certify that the foregoing is a true
transcript from Deed Book No. 23
Page 36, a record book in my
Office. Given under my hand this
the 11th day of November 1899.

B. M. Morgan. Clerk,

Eastern Ky Land Co.
From Deed
J. W. Divine + wife

"J W D"

Clerk \$1.00

✓
(3)

This indenture made and entered into this the 7th day of June, Anno Domini, 1871, between John F. Tyler and Jane E. Tyler, his wife, of the County of Buchanan and State of Missouri, parties of the first part, and John G. Newlee, of the County of *Claiborne* ~~Clinton~~ and State of Tennessee, party of the second part;

Witnesseth: That the parties of the first part, for and in consideration of the sum of five thousand dollars to them in hand paid by said party of the second part, the receipt whereof is hereby acknowledged, have this day granted, bargained and sold, and, by these presents, do grant, bargain, sell and convey unto the said party of the second part, the following tract and parcels of tracts of land, lying and being in the County of Claiborne and State of Tennessee, and in the County of Lee and State of Va., and in the County of Josh Bell in they State of Kentucky, and being the same lands that were conveyed by Martin Beaty and William Beaty to Beaty & Poteet by deed bearing date the 26th day of June, 1841, and duly recorded in the office of the clerk ~~of the clerk~~ of the county court of said county of Lee, that is to say, that is a part of a tract of eleven hundred and fifty-five acres patented in the name of John Jones by patent bearing date 2nd of August, 1796, and lying and being in the said county of Lee and Claiborne and bounded as follows, to wit: Beginning at a large and small gum trees on Walker's line on the bank of Gap creek, a corner of Arthur Campbell's land, thence west sixty poles to a large white oak above the head of a spring, thence N. 8° E. 152 poles to a large poplar on the side of a mountain called Cumberland Mountain, the N. 35 E. 220 poles to a black oak and poplar at a large rock

side of the
on the ^{8°} mountain, the North ~~8°~~ W. 80 poles to a pine and black-oak (now down) near the old Kentucky road, then N. 48° East 500 poles to a pine, thence N. 60° E. to two black trees, one on each side of the big road leading from the Gap to Jonesville, near the west side of a branch, thence with said road to where the dividing line between the said 1155 acre tract and the 3000 acre tract crosses said road, thence with said dividing line to the place of beginning; also so much of the Robinson tract as lies outside of the said 1155 acre tract and supposed to be 3 acres more or less; Also the one undivided half of one hundred acres of land in Cumberland Gap adjoining the 1155 acre tract on the west side and patented in the name of Robert Beaty and David Chadwell. Also the undivided ^{half} of a fifty acre tract held in partnership at one time with Isaac Dickinson, including a stone coal bank and patented in the name of William Beaty and Thomas Jones and lying on Little Yellow creek. Also another fifty acre tract lying on Little Yellow creek and patented in the name of William Beaty by patent bearing date 10th of August 1837 and including a stone coal bank and for the courses and distances of which reference is made to said patent. Also the undivided half of another fifty acre tract patented in the name of William Beaty and Thompson Edds and lying and being in the County of Josh Bell and State of Kentucky on a fork of Yellow creek, the boundaries of which are shown by patent. Also one other entire tract of fifty acres lying and being in said County of Josh Bell and which was patented in the name of William Beaty by patent bearing date the 13th of February, 1826, and situated on Davis branch, a small fork of Little Yellow creek. for the peticular meters and bounds of said last mentioned tract

reference is made to the patent therefor. Also all the right, title interest and estate that the parties of the first part had or owned or which was acquired in and to the following described land under a deed executed by John M. Beaty, Sarah J. Beaty, Brittain Poteet and Frances B. Poteet, and bearing date the 4th day of December, 1868 (to wit) A large survey of land lying on the south side of the Cumberland Mountain in the said County of Lee and known as the Fields survey and which tract, piece or parcel of land is more particularly described in a deed of conveyance executed by Claiborne Anderson, Commissioner, to John M. Beaty and Robert M. Ely, which deed bears date the 17th day of August, 1842, and is of record in the clerk's office of the county court of Lee County, Virginia. To have and to hold the said tracts, pieces and parcels of land together with all and singular the appurtenances thereto belonging or in anywise appertaining to the said party of the second part, his heirs and assigns forever, and the said parties of the first part will and they do hereby warrant and defend the title hereby given to the said party of the second part his heirs and assigns forever. Given under our hands and seals day and date first above written.

Witnessed by
Jno. Williams
Sam'l J. Riley

John F. Tyler, (Seal.)
J. E. Tyler, (Seal.)

This deed was filed in my office and noted for registration April 14th, 1873 at 10 o'clock A.M. and registered in Book G page 370 May 10th 1873.

P.G. Fulkerson, D. Register.

State of Tennessee,
Claiborne County

Lambert
I, Jefferson, Register of Deeds for said county do certify

the the foregoing is a true and perfect copy of a deed from John F Tyler and wife to John G. Newlee as the same appears of record in my office in Book G ² page ^{370,} 371 & 372 after a careful comparison. Witness my hand at Tazewell Tenn this 16th day of April 1890.

Jeff Lambert, Register of said County.

State of Tennessee,

Claiborne County.

I, A.J. Francisco, County Court clerk in and for said county certify that Jeff Lambert whose genuine signature appears to the above certificate is Register of Deeds for the County of Claiborne, State of Tennessee, and all his official acts as such are entitled to full faith and credit. Witness my hand and seal of office in Tazewell this 16th day of April, 1890.

(Seal.)

A.J. Francisco, clk.

Virginia, Lee County, to wit:

In the office of the clerk of the said county, May 19, 1890. This deed was presented and with the certificates thereto annexed admitted to record.

Teste: John R. Gibson, clerk.

A copy from Deed Book No. 25, page 109 &c.

Teste : B. M. Morgan, clerk.

John F. Tyler et al.

vs' { Deed

John G. Newlee.

Copy

Filed by agreement

Deed No 1

Clerk \$1.50

Copy of Record

WM. C. Brown

vs

Peyton & Swap.

1

A Transcript of the ~~xxxxx~~ Chancery Cause of Wm. G. Brown against Peyton & Swap and others as appears from a file of the papers in said cause in the Clerk's office of the Circuit Court for Lee County Virginia.

The Commonwealth of Virginia:

To the Sheriff Of Lee County, Greeting:

We command you to summon Charles Peyton, Wm. Swap, manufacturers and traders under the firm name and style of "Peyton & Swap", Wm. G. Newlee, Divine and Ada Divine his wife, formerly Ada Newlee, Jacob Slaughter and Eugenia Slaughter his wife, formerly Eugenia Newlee. To appear before the Judge of our Circuit Court of Lee County, at the Court house, in the Clerk's Office, at Rules to be holden for said County on the first Monday in February next to answer a Bill in Chancery exhibited in our said Court against them by Wm. G. Brown.

And have them there, this writ witness James W. Orr, Clerk of our said Court, at the Court house, this 14th day of January 1875 in the 99th year of the Commonwealth. James W. Orr, Clerk.

Endorsement on back of Spa.

The proper affidavit having been made the officer serving the within process is ordered to attach the estate of the Defendants

(2)

in the Commonwealth, and the same is attached in his hands so to secure and provide that the same may be forthcoming and liable to the future order of the Court.

Test: James W. Orr, Clerk.

Sheriff's return on Spa.

The within spa is not executed, the defendants being now residents of this Commonwealth. But I have executed the attachment endorsed hereon by levying the same on an unexpired lease or term of years in the Iron Foundry or Furnace situated at or near Cumberland Gap in Lee County, the property of the defendants, Peyton & Swap, and on the Real Estate of the defendants Wm. G. Newlee, --- Divine and Ada his wife, Jacob Slaughter and Eugenie his wife, descended to them from their father, John G. Newlee, deceased, which real estate is situated in said County of Lee, and also near Cumberland Gap. Given under my hand this 14th day of January 1875.

M. C. Miles, D. S., for C. L. Hamblen, S. L. C.

Affadavit:

Virginia, Lee County to wit:

This day William G. Brown personally appeared before me D. C. Willis, the undersigned, a Justice of the Peace in and for Lee County, and made oath that the claim which he has asserted against Charles Peyton and Wm. Swap, manufacturers and partners in trade, do-

(3)

ing business under the firm name and style of Peyton & Swap, and William G. Newlee, --- Divine and his wife Ada, Jacob Slaughter and Eugenia his wife, children and heirs at law of John G. Newlee, deceased, in an action now pending on the Chancery side of the Circuit Court of Lee County, Va. is, as he believes, just and true, and that he is entitled to and ought to recover in said action at the least the sum of \$140.80 of principal money with interest thereon from the first day of July 1873 till paid, and that he has present cause of action on said debt. That the defendants, Charles Peyton and William Swap, Wm. G. Newlee, -- Divine and Ada his wife, Jacob Slaughter and Eugenie his wife are now residents of the State of Virginia, and that he believes that the said Defendants, Charles Peyton, William Swap own a lease for a term of years yet unexpired in a certain Iron furnace or foundry situated near or at Cumberland Gap, and in the said County of Lee, that the said Defendants, William G. Newlee, --- Divine and Ada his wife, Jacob Slaughter and Eugenie his wife, have real estate situated in this County also near to Cumberland Gap which descended to them from their father, John G. Newlee, deceased. Given under my hand this the 13th day of January 1875. D. C. Willis J.P.

Filed Jany 14th 1875. James W. Orr, Clerk.

Order of Publication:

Virginia in the Clerk's Office of the Circuit Court of Lee County on

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the 14th day of January 1875.

Wm. G. Brown, Plff.

vs

In Chancery:

Peyton & Swap & others, Defts.

The object of this suit is to recover of the Defendants the sum of \$240/80, with interest from July 1st 1873 until paid, and to subject to the payment thereof the real estate and the unexpired lease in the Bill mentioned, owned by the Defendants, which has been attached for the purpose:. And it appearing from an affidavit filed in the cause that the Defendants Charles Peyton, Wm. Swap, Wm. G. Newlee, Divine and Ada his wife, Jacob Slaughter and Eugenie his wife, are non-residents of the State of Virginia, they are therefore ordered to appear here within one month after due publication of this order, and do what is necessary to protect their interest in this suit.

A copy Teste: James W. Orr, Clerk.

Printer's Affidavit:

Virginia, Lee County to wit:

I do hereby certify that the annexed notice has been published four weeks successively ending Feby. 5th 1875, in the Lee & County Sentinel, a newspaper published in the town of Jonesville, Lee County Virginia. Given under my hand this the 8th day of Febr.

(5)

1875.

Jno. B. West,

Ed. Lee County Sentinel.

Bill:

To the Honorable John A. Kelly, Judge of the Circuit Court of Lee County Virginia in Chancery sitting.

The Bill of Complaint of Wm. G. Brown, a citizen of said County, humbly complaining, sheweth to your Honor: that on the first day of May 1873 Charles Peyton and William Swap, manufacturers and traders under the firm name and style of Peyton & Swap, executed to your orator, their note in writing, commonly called a promissory note, with John G. Newlee, their security, by which they bound themselves to pay to your orator sixty days after date Two hundred and forty dollars and 80 cents for value received all of which will more fully appear by said promissory note, signed with the proper signature of said firm, and John G. Newlee, and here filed as part hereof marked Exhibit "A".

Your orator also represents that upon the said note there has been paid One hundred dollars to wit, on the 3rd of April 1874, which is endorsed on the back of said note. Your orator would also represent that the security of the said firm, John G. Newlee was not a resident of Virginia, and that said Charles Peyton and Wm. Swap were not residents of Virginia.

Your orator also represents that since the execution of the said promissory note aforesaid, the security thereon has died intestate leaving the following heirs at law, to-wit: William G. Newlee, Ada Divine, nee Newlee, wife of Dr. Divine, Eugenie Slaughter, formerly Newlee, now wife of Slaughter, all of whom are non-residents of the State of Virginia. Your orator also represents that said firm of Peyton & Swap are the lessees of an Iron Furnace situated in the County of Lee, and near Cumberland Gap, and is the same furnace formerly occupied by the firm of Howard Bedford and Newlee.

Your orator also represents that he is informed and believes that the heirs of the decedent John G. Newlee own land situated in said County and near to Cumberland Gap, a more particular description of which will hereafter be filed as part of this bill, marked B. Your orator charges that said heirs of John G. Newlee have an interest in the land on which the said Iron Furnace is situated, and an interest in said furnace.

Your orator knows nothing more belonging to said non-residents. He further charges that said Defendants have failed and refuse to pay said debt, though often thereunto requested, and that said decedent has no administrator in Virginia.

The premises considered the prayer of your orator is that an attachment issue against the effects of the said non-residents lease of the firm of Peyton and Swap, and also the interest of the

(7)

said John G. Newlee therein, and also the lands of said heirs situated as aforesaid, that said Charles Peyton and Wm. Swap, manufacturers and traders under the firm name and style of Peyton & Swap, William G. Newlee, Ada Divine, Divine her husband, Eugenie Slaughter, --- Slaughter her husband, be made parties defendant hereto and answer this Bill on oath, and specially discover any other effects liable to attachment for this debt, that an order of publication issue against said non-residents, that upon first hearing your Honor decree the payment of said debt, the sale of the property aforesaid, and such other as may be discovered and attached, or so much as is necessary to pay Your Orator's debt interest and costs. May Spa. issue &c.

Morrison & Duncan P.Q.

Upon this bill the following endorsement appears: "1875 Jany. 14' Bill filed & O.P. Feby Spa not executed and contd . for order P. March contd for O. P. April O. P. Completed, and Decree Nisi, May Decree Nisi confd, and set for hearing by Plff."

Exhibit A.

\$240/80

Cumberland Gap, May 1st, 1873.

Sixty days after date we promise to pay to the order of

W. G. Brown Two hundred and forty ⁸⁰/₁₀₀ Dollars value received, payable at office of Peyton & Swap, C. Gap.

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Peyton & Swap (SEAL)

John G. Newlee (SEAL)

April 3rd, '74 pd on the within \$100.00

Decree No. 1.

Wm. G. Brown, Plaintiff

vs

In Chancery

Peyton & Swap et als., Defendants.

This cause came on to be heard this 5th day of April 1876 upon the Bill of the Complainant, and it appearing to the Court that all of the Defendants to this suit are non-residents of the State of Virginia, and that order of publication has been duly made, published and completed against them. And it also appearing to the Court that Charles peyton, one of the Defendants in this cause has died since the filing of the Complainants Bill, and that Wm. A. Orr has been appointed his administrator, and that said Ad mr. consents that said cause may be revised against him, which is accordingly done and the cause is continued until the next term..

Commissioner's Office,

Jonesville, Va. June 16, 1877.

Wm. G. Brown, Plff.

vs

In Chancery

Peyton & Swap, et als., Defendants.

This cause came on this 8th day of September 1876 to be heard on the papers formerly read in the cause, and was argued by Counsel, and it appearing to the Court that this cause should be heard with the cause of Wheeler & Ball against Peyton & Swap et als now pending in this Court, it is ordered that they be brought on to be heard together, and this cause is continued until the next term.

Commissioner's Report:

Hon. Jno. A. Kely,

Judge of the Circuit Court of Lee County.

By a Decree entered at the last September term of your Honor's Court in this cause the same was ordered to be brought on to be heard with the cause of Wheeler and Ball vs said Peyton & Swap & others.

Recently I have taken an account, and made a report of the matters involved in that cause, and if my report in that cause is confirmed, it follows from the views therein expressed that the estates of John G? Newlee, Demortimer, Bedford and Howard nor either of them will owe Peyton & Swap or Peyton anything, and if it should be determined that there is nothing due to Peyton & Swap from said parties, then there is nothing upon which the attachment of Wheeler & Ball would operate, and if there is no personal estate due Peyton & Swap,

then I can see no reason why this suit should be heard with that of Wheeler & Ball.

This suit is founded upon a note by Peyton & Swap with John G. Newlee as security to the Plff., and as Peyton & Swap have no effects real or personal of which I have any knowledge, and as perhaps Mr. Newlee is the only solvent party, I see no other alternative but that this estate will have to pay this debt.

I am not aware of any personal estate of John G. Newlee in the hands of and under the control of Thomas S. Ely, his Administrator in Virginia, indeed, I do not suppose there is any any such personal estate within your Honor's jurisdiction, and I am not prepared to say whether or not the Administrator in Tennessee has in his hands sufficient personal estate to pay the liabilities of said Newlee.

But as I have shown in my report in case of Wheeler & Ball vs Peyton & Swap, John G. Newlee at the time of his death was the owner of 75 or 80 acres of land lying in this County, on part of which is situated the Newlee Iron Works, but the truth is I suppose the said Newlee really only owned at the time of his death an undivided moiety thereof as I have attempted to show in the report to which reference has just been made, and as a matter of course whatever interest said Newlee had therein has descended to his heirs at law, who are brought before the Court in this cause as Defendants.

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All of which is Respectfully submitted.

Henry J. Morgan.

Filed June 25th, 1877.

R. W. Orr Jr., D. C.

Amended Bill:

To the Honorable John A? Kelly, Judge of the Circuit Court of Lee
County, Virginia; in Chancery.

The Amended Bill of William G? Brown, a citizen &c.

Humbly complaining, repeats here his original
Bill, and prays as therein, save as to the Administrator of John G .
Newlee, deceased estate. At the time of filing the original Bill
there was no Administrator of said estate, but since that time Thos.
S. Ely has been appointed Administrator of said decedent's estate.
Your orator charges that there is no personality in the hands of said
Administrator available in this State.

He prays as in his Original Bill, and that Thos? S. Ely,
Admr. of said John G. Newlee, Deceased, be also made a party Defenda-
nt hereto, and required to answer each and every allegation of said
Original Bill, and this amended Bill, on oath. May writ of spa.
issue &c.

Morrison & Duncan.

Filed by leave of the Court Sept 6th 1876.

James W. Orr, Clerk.

To the Hon. Jno. A. Kelly, Judge of the Circuit Court of Lee County
Virginia. Sitting in Chancery.

The answer of Thos. S. Ely, Admr. of the estate
of John G. Newlee, deceased, to the Bill of Complaint of Wm. G. Brown,
exhibited in this Honorable Court against Respondent and others.
Respondent says that he hereby waives service of process, and con-
sents to the hearing of said Cause at this term.

Respondent says that he has no assets belonging to said
estate in his hands, and knows of none in this State. Respondent
knows nothing of said note; Supposes it is just. Respondent knows
of nothing save the property attached liable to attachment.

And haveing fully answered prays to be dismissed with his
costs, and as in duty &c.

J. F. Gibbon, Atty.

Virginia, Lee County Va.

Thos. S. Ely this day came before me and made oath that the
foregoing answer is true so far as it depends upon his own knowledge,
and he believes it true in so far as it depends on information deriv-
ed from others. Given under my hand this 6th day of September 1876

James W. Orr, Clerk.

Filed Sept. 7th 1876. James W. Orr, Clerk.

Consent Decree:

Wm. G. Brown

Plff.)

vs

In Chcy.

Peyton & Swap, et al,

Defts.

This cause came on this 3rd day of September 1877 to be a
again heard upon the papers formerly read, and it appearing to the
Court that the Plaintiff has departed this life since the last term
of this Court, by consent of parties this suit is revived in the name
of Mary G. Brown, Administrator of Wm. G. Brown, deceased, and the
cause is continued.

Mary G. Brown, Administratrix &c, Plff.

against

In Chancery

Peyton's Admr., Swap et ald, Defendants.

This cause came on again to be heard by consent of parties
upon the papers heretofore read, orders entered, and report of Com-
missioner Henry J. Morgan, and was argued by counsel; and it appear-
ing to the Court that Wm. A. Orr, Admr. of Charles Peyton, deceased,
has personally appeared to this suit, and by consent of Thos. S. Ely,
Admr. of John G. Newlee, deceased, and the heirs of the said Newlee
in person and by attorney, it is adjudged ordered and decreed that the
Plaintiff recover of William Swap, Wm. A. Orr, Admr., of Charles Pey-
ton, deceased, and Thos. S. Ely, Admr. of John G. Newlee, deceased,

out of the effects of their respective decedents in their hands unadministered, the sum of two hundred and forty dollars and eighty cents with interest thereon from the 1st day of July 1873 till paid, subject to a credit of One hundred dollars paid April 3rd, 1874., and it appearing to the Court that the attachment heretofore issued in this cause has been levied upon the real estate of the said John G. Newlee, deceased, and some personal property belonging to Peyton & Swap lying within the County of Lee.

It is therefore adjudged, ordered and decreed that unless the said defendants or some one of them shall within 60 days from the rising of this Court pay to the said Plaintiff the sum above adjudged and decreed to her together with its interest and the costs of this suit. By like consent of the parties hereinbefore named as constituting it is further adjudged ordered and decreed that C. T. Duncan who is hereby appointed a Special Commissioner for the purpose, shall sell at public outcry to the highest bidder the property real and personal upon which the attachment aforesaid was levied, or as much thereof as is necessary to pay said debt, interest and costs, the said sale shall be upon a credit of six, twelve and eighteen months, except as to so much as is necessary to pay the costs of suit and costs and commissions of sale, which shall be paid down in cash. The sale shall be made at the front door of the Court-house of this County on

some Court day after posting notices of time , place and terms of sale at the said front door of the Court house, at Cumberland Gap, and at Walnut Hill in said County. The Commissioner will report to this Court how he has executed this decree, and the cause is continued.

Wm. G. Brown

vs

Peyton & Swap et als.

and

In Chancery

Smith Crabtree

vs

Thos? S. ely Admt. et als.

These causes came on again this 3rd day of September 1878 to be again heard upon the papers formerly read in the cause, and the report of David Miller and C. T. Duncan, Special Commissioners filed in the causes 15th August 1878 (See Crabtree cause for report referred to) And was argued by counsel, and it appearing to the Court, that that said report has been filed for more than ten days before the first day of this term of the Court, and that there are no exceptions filed thereto, said report is in all things confirmed.

And it further appearing to the Court that the purchaser desires to pay the purchase money agreed by him to be paid for the land in the Bill mentioned down and lift his note, it is therefore

adjudged ordered and decreed that the said Commissioners receive from the said purchaser the amount of his note together with such interest as has or may accumulate upon it, and that upon its payment they execute before the Clerk of this Court a deed with covenants of special warranty to the purchaser, but before proceeding to collect said money they will execute before the Clerk of this Court a bond with good security in a sum double the amount received by them conditioned according to law, and they will report their proceedings to this Court, and the cause is continued.

This cause was further proceeded in to a final hearing in the cause of Smith Crabtree against Thos S. Ely Admr. &c.

State of Virginia, County of Lee to-wit:

I, J.A.G. Hyatt, Clerk of the Circuit Court in the County of Lee, State of Virginia, do hereby certify that the foregoing is a true transcript of the record and proceedings in a certain suit in Chancery, lately pending in the said Court between Wm. G. Brown, Plff and Peyton & Swap and others Defendants, with all things touching the same as fully and wholly as they now exist among the records in my office. In testimony whereof I hereunto set my hand and annex the seal of the said Court, this 20th day of December 1889.

seal

J. A. G. Hyatt, Clerk.

Jno G. Newell & et als

vs Ex "A"
with Deposition of
G. B. Cockrell
Oct 29 - 1900

East Ky Land Co. et als

John G. Newlee & et al

Ex "B"

vs. Filed with Depo-
sition of G. B.

Cockrell - Oct 29 - 1901

East Ky. Land Co. et al

Record

in

Smith Crabtree

vs

John G. Newlee's heirs and Creditors.

Copy of Record

Smith Crabtree

vs

Thos. S. Ely Adm. et al.

Pleas held before the Circuit Court of Lee County on the 13th day of February 1877, and thereupon came the Complainant by his attorney, and filed his Bill which is in the following words and figures, to-wit:

Bill: To the Honorable John A. Kelly, Judge of the Circuit Court of Lee County, the Bill of Complainant, Smith Crabtree, who brings this suit, and files this bill on behalf of himself and all the rest of the creditors of the estate of John G. Newlee, deceased, humbly complaining would respectfully represent that on the first day of September 1871, one John G. Newlee, executed and delivered to your Orator his written obligation bearing that date which was signed with his signature and sealed with his seal, and by which he undertook and bound himself to pay your Orator on or before the 1st day of March next thereafter the sum of \$150.00 and interest ~~xxxxxx~~ from the date thereof on consideration that your Orator should dismiss the suit therein mentioned at his own costs, and when payment is made that he should make a good sufficient warranty deed to the land in controversy in said suit to the said John G. Newlee or such other person as the said John G. Newlee might direct; and which contract your Orator afterwards, to-wit, on the 18th day of September 1871, agreed and accepted, and has since complied with the conditions of the said contract by dismissing the said suit at his own costs and by making a good and sufficient gen-

(2)

eral warranty deed to the land in controversy as directed by the said John G. Newlee, and which was accepted by him.

The said written obligation, and your Orator's written agreement and acceptance of the terms thereof is herewith filed, marked "a", and made a part of this bill, and is subject to a credit of \$20.00 which is endorsed thereon.

Afterwards the said John G. Newlee wrote to your Orator on the 16th day of December 1872 promising to pay your Orator, and this is herewith filed marked "B" and made a part of this Bill.

Afterwards on the 8th day of August 1873, the said John G. Newlee again wrote to your Orator, acknowledging the Justice of the Claim, which letter is also filed, herewith marked "C", and made a part of this Bill.

The said John G. Newlee sometime after this last letter was written departed this life, and his son, William H. Newlee, who lived in Claiborne County, Tennessee was appointed as his administrator in Tennessee, and as such by a letter to Dr. William Morgan, dated February 24th 1874, he acknowledged the justness of the debt, and said it should be paid, said letter is herewith filed, marked "D", and is made a part of this Bill.

Your Orator will further state that since the death of the said John G. Newlee, deceased, Thomas S. Ely, Sheriff of Lee County was by an order of the Circuit Court of Lee County made the administrator of his estate.

Your orator will further aver and state that no part of said obligation has ever been paid to him by any one, except the \$20.00 credit endorsed thereon. The said John G. Newlee never paid any

(3)

part thereof in his lifetime. The said William H. Newlee as Administrator in Tennessee never paid the same or any part thereof, nor did the heirs and distributees of John G. Newlee or any of them, to wit, William H. Newlee, John W. Divine, Adeline Divine his wife, Jacob Slaughter, and Eugenie Slaughter his wife, ever pay the same or any part thereof, nor has the present Administrator in Virginia, Thos. S. Ely, ever paid the same or any part thereof, but th they, and each and all of them have hitherto failed and refused to pay the same, and still do fail and refuse so ~~pay~~ to do although the said obligation with the interest due thereon was payable on the 1st day of March 1872. Your Orator will further state that he has no knowledge of any personal assets that are in the hands of the said Thos. S. Ely as Administrator of John G. Newlee, but he is informed and believes that there are no personal assets in Virginia, but he will further state and allege that the said John G. Newlee left at his death a large and valuable real estate lying and being at Cumberland Gap, Virginia in Lee County consisting of Mills, Iron Furnaces and Foundries, and including a large boundary of land which descended at his death to the following children and heirs, to-wit, William H. Newlee, Adeline who married John W. Divine, and Eugenie who married J acob Slaughter, all of whom are non-residents of Virginia. Now this is a creditors bill, the object of which is to convene the creditors of the estate of John G. Newlee, deceased, to marshall the real and personal assets belonging to the said estate, and administer the same and subject them to the payment of the debts and liabilities that may be proved against said estate ,

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and especially your Orator's debt, and your Orator being without an adequate remedy at law, and relieveable at a Court of ^{Chancery} Equity.

His prayer, therefore, is that the said Thomas S. Ely, Sheriff of Lee County, and as such Administrator of the estate of John G. Newlee, deceased, and William H. Newlee, and John W. Divine and Adeline Divine his wife, and Jacob Slaughter and Eugenie Slaughter his wife, be all made the party defendants to this bill, and that they all be summoned and required to answer the allegations of the same on oath, and that an order of publication be duly made posted and published against the said William H. Newlee, John W. Divine and Adeline his wife, and Jacob Slaughter and Eugenie his wife, who are all non-residents, and that the said Thomas S. Ely, Administrator &c. as aforesaid be required to state and discover what personal assets if any are in his hands, and at a final hearing the real and personal assets be martialled and subjected to the payment of your Orator's debt, and all other debts that may be proved against said estate, and that such other further and general relief be extended to your Orator as may be consistent with equity and justice and both suited to his case. May the Commonwealth writ of *sp. issue* directed &c.

Miller for Complainant.

Virginia, Lee County to-wit:

This day David Miller personally appeared before me the undersigned Clerk of the Circuit Court of Lee County, and made oath that to the best of his knowledge, information and belief the within defendants, William H. Newlee, and John W. Divine and Adeline his wife, and Jacob Slaughter

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and Eugenie his wife, are non-residents of this State. Given under my hand this 6th day of June 1877.

James W. Orr, Clerk.

And there is endorsed on the foregoing Bill the following, to-wit, Exhibits filed Bill filed February 13th, 1877.

James W. Orr, Clerk.

1877 March Spa executed on Thomas S. Ely, and decree nisi 1877, April decree nisi and continued 1877 May and June continued 1877 July op completed decree nisi 1877 August decree nisi confirmed and set for hearing.

The Exhibit "A" referred to in the foregoing Bill is in the words and figures following, to-wit: whereas for the purpose of settling a matter in controversy now pending in the Circuit Court of Lee County wherein Crabtree's heirs who sued for the benefit of Smith Crabtree, Plaintiff, and John G. Newlee and others are defendants. Now I undertake for myself and for the other defendants to pay the said Smith Crabtree on or before the 1st day of March next the sum of one hundred and fifty dollars and interest from this date on consideration the said Crabtree shall dismiss said suit at his own costs, and when the payment is made shall make a good and sufficient warranty deed to the land in controversy to me or such other person as I may direct. Given under my hand and seal, September 1st, 1871.

John G. Newlee (Seal)

I do hereby agree to the above terms of settlement of the suit therein mentioned. Witness my hand and seal Sept. 18th 1871.

Smith Crabtree (Seal)

(6)

There is endorsed upon the foregoing Exhibit "A" the following, to-wit, February 24th, 1874, credit the within by note given up this day \$20.00 Exhibit "B" heretofore referred to in the foregoing Bill is in the words and figures following, to-wit, Cumberland Gap, December 16th, 1872. Mr. Smith Crabtree, Dear Sir, I received a letter last week from Mr. Howard the man who bought the half of the Gap property, he says if the money is in Kentucky, he will get it and have it here by the first day of January just as soon as I get it, I will go up to Mr. Arch Fulkerson's to pay my Tyler debt, and I will go on to your house and pay you, if it comes sooner I will be up with it. All are well.

Yours respectfully

John G. Newlee.

Cumberland Gap, Aug. 8th, 1873,

Mr. Smith Crabtree,

Dear Sir: Having failed to get money I expected when I last saw you, and my long spell of sickness leaves me without money., if Mr. Stickley will have the kindness to take up my note it will be all right and I will pay it as soon as possible. If Mr. S. does not lift it, you call on Mr. A. H. Fulkerson who I think will pay John F. Tyler's part of it.

Yours respectfully

John G. Newlee.

Cumberland Gap, Tennessee, Feby. 24th, 1874, Dr. William Morgan, Mr. Smith Crabtree holds a note against the estate of John G. Newlee, deceased. I am the Administrator of the estate, and will pay up the indebtedness of the estate just as soon as I can properly

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make collections or as soon as I can get the monies into my hands. I do not care to whom I pay the money. The note was given in good faith, and will be paid as soon as possible. I write this as Mr. Crabtree suggests that you would probably purchase the note if I did not object. I do not object. If no bad luck, the distributional of the furnace will pay all of the indebtedness of the estate this Summer.

Very respectfully

William H. Newlee, Adminis-

trator of ~~thmx~~ John G. Newlee, deceased.

The order of publication referred to in the foregoing Bill is in the words and figures following, to-wit,
Virginia, At rules held in the Clerk's office of the Circuit Court of Lee County on Monday June 4th, 1877, Smith Crabtree Plaintiff against Thomas S. Ely, Administrator of the Estate of John G. Newlee, deceased et al. defendants.

The object of this suit is to convene the creditors of the estate of the said John G. Newlee, Deceased, to marshall the assets real and personal belonging to said estate, and to administer the same, and it appearing from an affidavit filed in the cause, that the defendants: William H. Newlee, John W. Divine and Adeline Divine his wife, and Jacob Slaughter and Eugenie Slaughter his wife, are non-residents of this State; it is therefore ordered that they appear here within one month after due publication of this order, and do what is necessary to protect their interest in this suit.

A copy teste:

James W. Orr, Clerk.

(8)

I certify that on the first day of the July Term 1877 of the County Court of Lee County I posted at the front door of the Court house of said County a copy of the above order. Given under my hand this June 1877.

James W. Orr, Clerk.

Commonwealth of Virginia. To the Sheriff of Lee County Greeting, We command you to summon Thomas S. Ely, Sheriff of Lee County and as such Administrator of the estate of John G. Newlee, deceased, William H. Newlee, John W. Divine and Adeline Divine his wife, and Jacob Slaughter and Eugenie Slaughter his wife, to appear before the Judge of the Circuit Court of Lee County at the Court House in the Clerks Office on the 1st Monday in March next being March rules next to answer a Bill in Chancery exhibited in our said Court against them by Smith Crabtree who brings this suit, and files said Bill in Chancery on behalf of himself and all the rest of the creditors of this estate of John G. Newlee, deceased, and have then and there this writ. Witness James W. Orr, Clerk of our said Court at the Court House this 13th day Of February 1877, in the 101 year of the Commonwealth.

On the back of this Spa the following endorsement is entered, executed on Thomas S. Ely. Thomas J. Ely, D. S. for Thomas S. Ely, S. L. C.

James W. Orr Clerk.

I hereby certify that a Chancery order in the Circuit Court of Lee County of which the annexed is a copy was printed four successive weeks on the "Lee County Sentinel", a Weekly Newspaper published in the town of Jonesville, County of Lee, State of Virginia, publi-

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cation ending this 29th of June 1877.

Charles Willoughby,

Publisher Sentinel.

Virginia, Lee County, to-wit:

At a Circuit Court continued and held for Lee County at the Court House thereof on the 7th day of September 1877.

Smythe Crabtree against Thomas S. Ely Administrator &c, and other defendants.

This cause came on this day to be heard upon the Bill filed by Plaintiff and exhibits filed with same, and was argued by Counsel, and it appearing to the Court that the Home Defendant had been duly served with process, and that the non-resident defendant had been duly served with process of an order of publication, and that said process had been served, and that the said order of publication had been completed the term required by law before this term of the Court, and that the Plaintiff had matured this cause at rules in the Clerk's Office, and set the same for hearing, and the defendant still failing to appear and answer the Complaint bill, the same is therefore taken for confessed against them, on consideration of which the Court hereby adjudges, orders and decrees that Henry J. Morgan, a Commissioner of this Court, do take, state, settle and adjust the administration accounts of Thomas S. Ely, Administrator of John G. Newlee, deceased, so as to show the real and personal assets in his hands, and to convene the creditors of said estate, and ascertain the outstanding claim against the estate.

And he will ascertain any other matters deemed pertinent by

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him or required by any of the other parties, and he will report his action to this Court, and the cause is continued until next term.

Enter this Jno. A. Kelly, Sept. 7th, 1877.

Entered on page 685 , Chancery Court Book.

James W. Orr, Clerk.

On a suit and Bill in Chancery brought and filed against non-residents and others, title of the cause as follows:

Smythe Crabtree who brings this suit and files this Bill on behalf of himself and all the rest of the creditors of the estate of John G. Newlee, deceased, plaintiffs against, in Chancery on a Creditor's Bill, Thomas S. Ely, Sheriff of Lee County, and as such Administrator of the estate of John G. Newlee, deceased, William H. Newlee, John W. Divine and Adeline Divine his wife, Jacob Slaughter and Eugenie Slaughter his wife, defendants.

The general object of this suit and Bill in Chancery which is a creditors suit and Bill in Chancery is to convene the creditors of the estate of John G. Newlee deceased, to marshal the real and personal assets belonging to said estate, and to administer the same, and to subject them to the payments of the debts and liabilities that may be proved against said estate, and especially in the payment of a debt of One hundred and fifty dollars and interest thereon due the Plaintiff. This cause is pending, and this Bill is filed in the Circuit Court of Lee County, Virginia.

The said tract of land and real estate belonging to the defendants, and which was sought to be administered on subjected to the debts and liabilities against the estate of John G. Newlee, de-

(11)

ceased by this suit and Bill in Chancery, lies at Cumberland Gap in Lee County, Virginia, and is bounded by the Tennessee line on the South, and the Kentucky line on the North, and includes the furnace and foundry, and mills and water power, and store house and other buildings, and iron ore &c, and the estates of John G. Newlee deceased, and Thomas S. Ely, his administrator, and William H. Newlee, John W. Divine and Adeline Divine his wife, and Jacob Slaughter and Eugenie Slaughter his wife, estates are intended to be effected by this Bill and suit in chancery, and this memorandum of Lis Pendens is left with the Clerk of the Court of the County of Lee in which said land and real estate &c. is situated, who shall forthwith record the same in the Deed Book in his office, and index the same by the name of the persons aforesaid.

Smythe Crabtree for himself

This 13th, the creditors of John G. Newlee deceased,
Feby. 1877. ceased, by his Attorney

David Miller.

Virginia, Lee County Court Clerk's Office, Feby., 13th, 1877.

The foregoing memorandum of Lis Pendens of Smythe Crabtree &c Plaintiff vs Thomas S. Ely, Admr. for &c and others Defendants was this day filed and left with me, Clerk of the County Court of Lee County in which the Defendant's lands and real estates are situated, and I have recorded the same in the deed book in my office, and I have indexed the same in the name of each Deft. therein.

Teste: James W. Orr, Clerk.

(12)

Filed, Recorded, and Indexed, Feby. 13th, 1877.

Book 17, Page 593. James W. Orr, Clerk.

Comp. Office, Jonesville, Va.

March 19th, 1878.

Wheeler and Ball, Pliffs against Payton Swap and others
William Brown Plaintiff vs Peyton & Swap Defts. Smythe Crabtree
Pliff against Thos S. Ely Admr. and others Defendants. In Chancery
To the Honorable John A. Kelly,

Judge of the Circuit Court of Lee County.

As the real estate which descended from John G. Newlee to his heirs at law lying in this County is sought to be reached, and subjected to the payment of the demands sought to be enforced in these three suits. It occurred to me that it might be proper that they should be brought on to be heard together, and hence I have stated each case at the head of the paper. By a decree heretofore entered in the second cause it and the first were ordered to be heard together. My suggestion, therefore, only applies to the last that it be added to the others. By a decree entered on the third cause, on the 7th of Sept. 1877, I was directed to state and settle the Administration accounts of Thos. S. Ely, Administrator of the estate of John G. Newlee, deceased, to convene his creditors and to marshal his assets real and personal &c.

The said John G. Newlee at the time of his death was a resident of Claiborne County, Tennessee, and lived at Cumberland Gap near the Virginia and Tennessee line, and all of his personal estate as well as much the larger part of his real estate was, and

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is, in the State of Tennessee. His son, William H. Newlee, as I am informed, qualified as his executor in the said State of Tennessee.

And as to the state of assets in his hands I am not informed, and can say nothing. But as John G. Newlee at the time of his death owned an undivided interest in some real estate lying in this County, his estate was doubtless for the purpose of prosecuting these suits committed to Thos. S. Ely, Sheriff of this County, for administration so far as these assets are concerned. In response therefore to the first requirement of the decree under which I am acting, I have to report that there has not come into the hands or control of Mr. Ely as such Administrator any personal estate of the said John G. Newlee. It, therefore, follows that he has no administrator's account to be settled or adjusted. In response to the second part of said decree I have prepared and herewith file as Exhibit "A" a statement of all the debts owing by the estate of John G. Newlee, deceased, calculated down to January, 1st 1873, and thus calculated they amount in the aggregate to \$392.74.

The only claims set out in this statement are the note and obligation upon which the 2nd and 3rd of these suits are founded.

The balance of the claim due to Plaintiff Brown calculated as aforesaid amounts to \$185.74, and that of the Plaintiff Crabtree \$207.00.

In response to the last part of the decree under which I am acting I have to report that, as I understand it, the said John

G. Newlee at the time of his death was the owner of an undivided moiety of about 75 or 80 acres of land lying within this County on which is located and situated what is known as Newlee's Iron Works or Foundry near Cumberland Gap. The manufacturers of iron, and foundry men would doubtless regard this property as quite valuable while to others it would be of comparatively little value; as an individual, I should look upon it as quite valuable on account of the fine water power which it affords for running machinery of almost any description. But so far as the soil is concerned for purposes of cultivation I should regard it as almost worthless. In the case of Wheeler & Ball against Peyton & Swap,

> The Plaintiffs are insisting that the estate of John Newlee is indebted to the Defendants, Peyton & Swap in a large sum *and they have a large demand against the said Defendants and if they could succeed in showing Newlee's liabilities to Peyton & Swap on account of permanent improvements, then they seek to be substituted* to the rights of Peyton & Swap as against Newlee. In that case, however, these matters were referred to me to make enquiry with reference to permanent improvements, and upon an actual view of the property, and the evidence produced before me, I was of opinion that the estate of Newlee was not indebted to Peyton & Swap anything. I so reported in that suit. But as yet no action has been taken upon my said report, and until that is done I can neither report for or against said claim further than I have already done in that particular case. If the Court should sustain my view of the case, then that suit will be dismissed, but if my opinion should be over-ruled, and your Honor should decree against Newlee's estate, then the amount of the indebtedness thus established would constitute a further charge against the estate of said Newlee in

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addition to the two herein reported. I have taken simply these three suits and with the evidence which they afford, I have made this report without giving to any person in any way notice thereof, all of which is respectfully submitted.

Henry J. Morgann Comr.

The Estate of John G. Newlee

to sundry persons, his creditors, Dr.

For note May 1st 1873, dure 60 days from date

For By Peyton & Swap, and with John G. Newlee as Security

For To William G. Brown For \$240.80, credited by \$100.00

Paid April 3rd, 1874	Bal. Due last date	\$151.64
For interest on same to Jany 1st 1878		<u>34.10</u>
	Total	\$185.74

For written obligation to Smythe Crabtree by John G. Newlee, dated Sept., 1st, 1871. By which said Newlee undertook to pay said Crabtree on or before the 1st day of March thereafter with interest from the date of the said writing, this sum \$150.00

For Interest on same to Jany 1st, 1878	<u>57.00</u>
Total	\$207.00
Aggregate amount of debts against said Estate	\$392.74

Virginia, Lee County to wit:

At a Circuit Court continued and held for Lee County at the Court House thereof on April 5th 1878.

Wheeler & Ball

Plaintiffs

vs

In Chancery

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Peyton & Swap Defendants
and
William G. Brown Plaintiff
vs In Chancery
Peyton & Swap et als. Defendants
and
Smythe Crabtree for &c Plaintiffs
vs In Chancery
Thos S. Ely Administrator for &c et al
Defendants.

These causes came on to day to be heard ^{together} upon the papers formerly read in the causes, and the report of Henry J. Morgan, Commissioner, and was argued by Counsel, and it appearing to the Court that said report has been filed in the Clerk's Office, for more than ten days, and no exceptions being filed thereto, the said Commissioners report is hereby approved and confirmed. On consideration of which it is adjudged, ordered and decreed, that the Plaintiff, Smythe Crabtree, recover of the Defendant, Thos. S. Ely, Administrator of the estate of John G. Newlee, deceased, the sum of \$150.00 and interest thereon from 1st Sept. 1871, till paid, and the costs of this suit subjected to a credit admitted by the Plaintiff Crabtree of \$20.00 paid Feby. 24th, 1874 to be made out of any assests in said Administrators hands belonging to his descendant's estate unadministered, and it is also further adjudged, ordered and decreed that Mary G. Brown, Administratrix of the estate of William G. Brown, deceased, recover of William W. Swap, and of W. A. Orr, Administrator of Charles Peyton, and of Thos. L. Ely,

Administrator of the estate of John G. Newlee, deceased, the sum of \$240.80, with interest thereon from 1st day of July 1873 till paid, subject to a credit of \$100.00 paid April 3rd, 1874, and that she also recover of them the costs of the suit brought by her late husband, and now prosecuted by her to be made and levied out of the goods and chattels of William W. Swap, and the assets in the hands of William A. Orr, Administrator of Charles Peyton, and in the hands of Thos. S. Ely, Administrator of John G. Newlee deceased, belonging to their respective decedents estate unadministered; and it further appearing to the Court that there are no personal assets belonging to the defendants that are liable to levy, but that the decedent John G. Newlee left at his death an undivided interest in some real estate lying and being in Lee County Virginia at East and South of Cumberland Gap which descended to the heirs of John G. Newlee, deceased, at his death; the Court hereby orders, adjudges and decrees that the said interest in said real estate be sold to satisfy this decree, and the Court hereby appoints David Miller and Charles T. Duncan as Special Commissioners to make said sale whose duty it shall be that unless the said Defendants or some one for them shall within 30 days from this date pay the amount herein decreed with interest and costs to the parties entitled thereto, to advertise and sell the said interest in said estate or so much thereof as may be necessary to satisfy this decree, and all the costs of the said two suits, at the front door of Lee Court house in Jonesville, Va. on some Court day at public auction to the highest bidder. But before selling they will first advertise the time, terms, and place of their said sale at the front door of Lee Court

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house, and two or more other public places in said County near the land to be sold, for at least thirty days before the date of sale, and they will require of the purchaser an amount in cash in hand sufficient to pay all costs of both suits and their Commissions, and for the residue they will require of the purchaser bond with good security waiving the Homestead, bearing interest from date. Due respectively in 6, 12, and 18 months from the date thereof, and they will report their action to this Court at that time, and the cause is continued as to these two causes, and the Court further orders, adjudges, and decrees that the Plaintiffs in the first named cause recover of the defendant William W. Swap, and the defendant William H. Orr, Administrator of the estate of Charles Peyton, deceased, the sum of \$3316.79, with interest thereon from the 18th day of June 1875 till paid, and the costs of this suit by them expended to be made and levied out of any estates belonging to the defendant William W. Swap, and out of any of the estate of said Charles Peyton, deceased, in the hands of William H. Orr, his administrator, unadministered, and the Sheriff having returned that he had attached and levied on about 100 cords of wood, and 300 Bus. coal, the Sheriff is hereby directed to sell the same after ten days notice, and pay the proceeds to the Plaintiff, and this cause is stricken from the docket.

Enter John A. Kelly, April 5th, 1878.

J. W. Orr , Clerk

Entered Page 759 & 60.

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To the Honorable John A. Kelly,

Judge of the Circuit Court of Lee County, Virginia:

The undersigned who were appointed Commissioners in the Consolidated Chancery Cause of William G. Brown vs Peyton & Swap et als; and Smythe Crabtree vs Thomas S. Ely, Administrator, et al. by a decree rendered and pronounced in said causes on the 5th day of April 1878 would ^{respect} regretfully report that pursuant to said decree (the defendants, and neither of them having paid the plaintiffs or either of them the several sums decreed them in the said decree) advertised for sale the lands in the bills mentioned, being the lands attached on as the property of the heirs of John G. Newlee in the suit of William G. Brown vs Peyton & Swap et als, said lands are situated at and adjoining Cumberland Gap in said County, and are mostly or entirely mountain land wild and unimproved, pursuant to said advertisement, and in accordance with said decree. Your Commissioners on the 5th day of August 1878 (that being Court day) at the front door of Court house of said County exposed said land to sale to the highest bidder, on a credit of six, twelve and eighteen months, except a sum sufficient to pay costs of said two suits and expense of sale which they required to be paid down, at which sale Samuel C. Jones of Cumberland Gap became the purchaser of the said land at the price of \$482.34, that being a sum sufficient to pay the debts in said bills mentioned, costs of suit, and expense of sale. Your Commissioners ascertained the costs of suits, and Commissions of sale to be \$91.29, and this sum was paid in cash to them, and for the balance, \$391.05 the

said Jones executed his note bearing interest from date with H. J. Morgan his surety, payable in three equal instalments, due respectively in six, twelve, and eighteen months, which note is herewith filed, marked (1) (This note is not in papers. I suppose the same has been lifted.)

Your Commissioners then paid to James W. Orr, Clerk, his costs in said two suits, amounting to \$19.14, and file herewith his receipt for the same, marked (2), viz: "Received of David Miller and C. T. Duncan, Commissioners in the consolidated Chancery causes of William G. Brown against Peyton and Swop and others; and Smith Crabtree against Thomas S. Ely, Administrator and others (\$19.14) Nineteen dollars and fourteen cents, my fee in said two causes up to and including August term 1878. Aug. 5th, 1878.

James W. Orr, Clerk,

Lee Circuit Court.

Brown Case	\$9.69
Crabtree Case	<u>9.45</u>
	\$19.14

T They then paid to H. J. Morgan his fee as Commissioner in said two suits amounting to \$4.50, his receipt for which is herewith filed, marked (3), viz: "Received of C. T. Duncan and David Miller, Commissioners in the Chancery Causes of William G. Brown vs Peyton & Swop and others, and Smith Crabtree vs Thomas S. Ely, Administrator et al, four dollars and fifty cents, my fee as Commissioner in said causes, this 5th day of August 1878.

Henry J. Morgan.

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They then paid to Charles Willoughby, Editor of the Sentinel, fee for order of publication in the case of William G. Brown \$5.00, his receipt for which is filed marked (4), viz, Toprinting chancery order four weeks in case of William G. Brown, Plff.

1875 vs \$5.00

Feby. 5th Peyton & Swop et al Defendants.

Received payment of C. T. Duncan and D. Miller, Commrs.

Chas. Willoughby

And to the same \$5.00 for printing order publication in the Smith Crabtree case, and file his receipt for same marked (5).

1877 Smith Crabtree Dr.

To Charles Willoughby

June 29th, For printing the annexed chancery order four weeks ending to day \$5.00

Received payment

Charles Willoughby.

They then paid the Sheriff One dollar, his fee in said two cases, his receipt for which is herewith filed, marked (6), viz: "Received of C. T. Duncan and David Miller, Commissioners in the Chancery causes of William G. Brown vs ^{Crabtree} Peyton & Swop, and ^{Thos. S. Ely} Smythe-Crabtree vs Thos. S. Ely, Administrator et al. One dollar, Sheriff's fee in said two causes, this 5th day of August 1878.

Thomas S. ely, S.L.C.

They then paid to Morrison and Duncan, attorneys fee, \$15.00, in case of William G. Brown, and file their receipt for same

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marked (7) viz: "Received of David Miller and C. T. Duncan, Commissioners in the Chancery causes of William G. Brown vs Peyton & Swop et al, and Smith Crabtree vs Thomas S. Ely, Administrator, et al, \$15.00, our fee as attorneys in said case of William G. Brown vs Peyton & Swop et al, this August 5th, 1878.

Morris & Duncan

per Duncan.

And to David Miller, attorney's fee \$15.00 in the case of Smith Crabtree, his receipt for which is herewith filed, marked (8), viz: "Received of David Miller & C. T. Duncan, Commissioners in the Chancery Causes of William G. Brown vs Peyton & Swop et al., and Smith Crabtree vs Thomas S. Ely, Administrator et als. \$5.00, my attorney's fee in case of Smith Crabtree aforesaid, this August 5th, 1878.

David Miller, Atty.,

for Smith Crabtree.

They retained their commission on said sale amounting to the sum of \$18.28, and there is left in their hands as estimated costs \$8.37, \$4.36 of which is in the hands of Commissioner Duncan, and the remainder, \$4.01, in the hands of Commissioner Miller.

The sale appeared entirely satisfactory to the heirs of John G. Newlee, deceased, one of whom was present acting, or claiming to act, for all of them; and as your Commissioners are informed the purchase was really made for the Newlee heirs.

The said Samuel C. Jones, the purchaser, desires to pay

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the money, and lift his note should the sale be confirmed, and has deposited the money for that purpose with H. J. Morgan, and you Commissioners respectfully recommend that he be permitted to do so, to whom a deed should then be made, that being, as your Commissioners are informed, the desire of the said Newlee heirs.

All of which is respectfully submitted

David Miller, Commissioner.

C. T. Duncan, Commissioner.

Filed August 15th, 1878.

James W. Orr, Clerk.

Virginia,

At a Circuit Court continued and held for Lee County at
&c. Decr. 4th, 1879.

Smith Crabtree for &c

Plaintiff

against

In Chancery

Thos. S. Ely, Admr. &c. et al. Defendants

This cause came on to be heard upon the papers formerly read, and the report of David Miller and Charles T. Duncan, Commissioners, who had sold the land in the Bill mentioned, and was argued by Counsel, and said report of sale having been filed in the Clerks Office in this cause for more than ten days before this term of the Court, and no exceptions having been filed thereto, and the purchaser, Samuel C. Jones, having fully paid the purchase money for the land sold as admitted by the parties by their counsel, the report is hereby approved and confirmed, and the Commissioner, David Miller is hereby directed to execute, and file in the papers in this cause a deed to the purchaser for the land sold, and the

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cause is continued till next term.

To the Honorable John A. Kelly, Judge:

Pursuant to the last decree entered in this cause, I herewith file with this my report a deed to Samuel C. Jones, the purchaser, of the land sold by myself and C. T. Duncan Commissioner in this cause, all of which is respectfully submitted to your Honor.

David Miller, Commissioner,

Filed 12th, 1880.

James W. Orr, Clerk.

Smith Crabtree for &c.

Plaintiffs

against

Chancery Reports.

Thos. S. Ely, Admr. &c. et als.

Defendants

To the Honorable John A. Kelly, Judge:

We the undersigned Commissioners who sold the land in the bill mentioned do hereby report that the purchase money has been fully paid to us by the purchaser, Samuel C. Jones, and that we the attorneys of the Plaintiff in said causes have fully paid the same to the Plaintiffs as well as the costs of the suits, and have full receipts for the same, and that there is no reason why the deed executed to the purchaser, Samuel C. Jones, should not be delivered to him.

Respectfully submitted

David Miller, Commissioner.

C. T. Duncan, Commissioner.

On this report is endorsed, Filed Aug., 13th 1880.

James W. Orr, Clerk.

Virginia,

At a Circuit Court continued and held for Lee County at
&c. Aug., 30th, 1880.

Smith Crabtree for &c.

Plaintiff

against

In Chancery.

Thos. S. Ely, Admr. &c. et al.

Defendants.

This cause came on this day to be heard upon the papers formerly read, and the report and deed filed by Commissioner Miller, and Commissioners Miller and Duncan; and it appearing to the Court that said reports and deed had been filed in the Clerk's office for more than ten days before the first day of this term, and no exceptions being filed thereto, the y are approved and confirmed, and the said deed is directed to be delivered to the purchaser Samuel C. Jones, that the same may be recorded by the clerk of the County Court of Lee County, and nothing further being necessary in this cause, it is ordered to be stricken from the docket.

I, John A. G. Hyatt, Clerk of the Circuit Court for Lee County Virginia do hereby certify that the foregoing is a full, correct and perfect record of the Chancery Cause of Smith Crabtree vs Thomas S. Ely, Administrator, et al. from the fiels of said cause i in my office. Given under my hand with seal of office attached this Decr. 9th, 1889.

J. A. G. Hyatt, Clerk.

Seal.

Pro G. Newlee p. apals

Ex. "X" Filed

with Rice

or with

East Ky. Land Co. apals

Cops of land March 2 1895

(2)

Eastern Kentucky Land Co.

From

J. M. Diving & wife

Deed Book No. 31, Page 373.

THIS DEED made this second day of March 1895, by and between
J. W. Divine and Addie M. Divine his wife, parties of the first
part; and the Eastern Kentucky Land Company, party of the second
part, witnesseth: that whereas the parties of the first part,
did on the 22nd day of October 1893, sell unto the party of the
second part a certain tract or parcel of land, situated in Lee
County Virginia, and more fully described hereinafter, whereas the
parties of the first part in pursuance thereof, under took on the
19th day of December 1893, to convey the same to the party of the
second part, but which said paper and writing in a formal deed,
and whereas the said parties of the first part afterwards, on the
second day of July 1894, under took to make further conveyance, of
the said land, but which said deed was not finally satisfactory
to the parties of the second part; now therefore to fully adjust,
settle and confirm said sale, and make conveyance of the land so
sold, and described hereinafter; now therefore in the consideration
of the premises, as well as the sum of Twenty thousand dollars
heretofore fully paid the receipt whereof is hereby acknowledged,
the said J. W. Divine and Addie M. Divine his wife, parties of the
first part doth by these presents grant, bargain, sell, and convey
unto the party of the second part a certain tract or parcel of land
situated in Lee County Virginia, and bounded as follows, that is
the entire interest of the parties of the first part in the Nathan
Fields survey, as surveyed by C. W. Johnson, in February 1897, on
the South side of Cumberland Mountain West of or from Cumberland
Gap, together with the Mill Site, of the parties of the first part

(2)

Formerly used a carding machine and water power as reserved, and also one-half interest in sixty foot square, including but not interfering with mill site. To have and to hold, said tracts or parcels of land, unto the party of the second part, and its successors and vendors forever, and the parties of the first part covenant, that they will warrant and forever defend the title of said said land generally.

Witness the following signatures and seals this and day and year first above written:

J. W. Divine (SEAL)

Addie M. Divine (Seal)

County of Maibourne to wit:

I, J. W. Montgomery, a Notary Public for the County aforesaid, in the State of Tennessee do certify that J. W. Divine and Addie M. Divine, whose names are signed to the writing above bearing date on the 21st day of March 1895, has acknowledged the same before me, in my County aforesaid.

Given under my hand and Notarial Seal this the 4th day of March 1895.

J. W. Montgomery, N. P.

Virginia, Lee County to wit:

In the office of the Clerk of said County the 22nd day of May 1895, this deed was presented and together with the certificate hereto annexed admitted to record.

Test: S. V. P. Richmond, Clerk.

(1)

Virginia, Lee County 10-111:

I, E. W. S. Richmond, Clerk of the County Court for said County, do certify that the foregoing writing is a true transcript from the records in my office.

Given under my hand this 24th day of April, 1907.

E. W. S. Richmond, Clerk.

Lazierwill Tenn Mar 1 "1882

W. H. Newlee

Dear Sir:

Yours of to day to hand. In the first place, even if Colson would take the \$300 we cant afford to promise to pay it, for if we buy in the Gap, that will be all we can pay, and we may have to make sacrifices to pay that. Uncle Sam is very undecided, and furthermore, ~~he~~ ^{it} seems unwilling to trust us. So far as I am concerned I dont think I would accept his money, when a man goes so far as to manifest an unwillingness to even not be willing to trust me, when to him every thing was made secure. I let him go. With what money you and I can get to pay down, I think we can arrange with H. V. J. to give us time on the balance. in the event we could not give security. Yet I feel certain that I can give the security, but we might get better time from H. V. J. than the decree gives. If Uncle Sam has such unbounded confidence in H. V. J. & so little in us let him cultivate

him and whom I cannot make no
other shift I may call on him

Sam is not here now he went to Court
at Maynardsville Sunday last and will
not be here before Saturday

You can say to Jimmie that I am
not only willing, but would be very glad
she should get the money to pay for
a $\frac{1}{3}$ interest in the West Side, and in
the event we buy the Tenn Side she
can so far as I am concerned have
any reasonable time to pay her $\frac{1}{3}$ and
have that. Yet if we buy it and strip
and probably break ourselves up to
pay for it, we cant or I cant afford
to take in or make her a $\frac{1}{3}$ interest
unless she can help pay for it. nor
do I suppose she would ask it
In my opinion anyway it is rather a
risky investment. For if a R.R. does
not come it will never be worth the
money. No more in I all are well

Yours Truly
J. W. Divine

JHM

Cumberland Gap April

H. J. M. Kinnear

Sir

It is my understanding that you have bought the Tennessee side of the Gap tract of land & also redeemed the Va side. Brother has told me that you & he were willing that I should hold an equal interest in both parts - provided I paid an equal part. This is what I want to know if I meet the payments promptly are you and Addie willing to make me a deed to my interest? For I know that you alone have the power to make me safe, Brother has told me several times that it would all be right - but I do not want to strip myself of every thing to meet the payments.

useless I have some assurance
from you - I think that I can
meet the payments - and provided
I do and you are willing to make
the deed - I want you to let me
know the exact amount I have
to pay on each debt - answer this
as soon as convenient - as I will
have to be up and doing - all are
well - Love to all

Respectfully

James Stanton

JHM 2

Fazewell Tenn April 17 "1883

W. H. Quoted Esq

Dear Sir:

When you was here I did not think to get the calls
or boundaries of the Gap lands so as to get a deed
We could get the boundaries of the entire tract but
that you know would include the Va side, and
we only want the Tenn side. We could get the
a deed covering all the lands without any calls
but the lawyers say it would be better to give
the calls. If you have anything you can get
the calls of the Tenn side please send it over
to me of interest all and will write
and give the deed

Yours Truly
J. W. Dixon

James H.
Thomas L. J. W. Divine has this day
purchased at Court sale the undivided
half of The Cumberland Gap property lying
in Claiborne County Tennessee formerly
belonging to Jno. G. Newlee & Co. known
of purchase Fifteen Hundred & One Dollars
to reimburse said Divine for a former
also fifty five Dollars, in addition to be
paid to Dr. J. W. Divine, A. L. Greer hereby
agrees to go on bond with said J. W.
Divine and to pay one fourth of the purch-
ase money as it matures and also to
pay said Divine fifty five Dollars, &
when the full amount of purchase money
is paid said Divine is to convey to said
A. L. Greer one fourth of the ~~purchase~~
and purchased under said decree in
suit of James Carr vs Wm. H. Newlee
Admrs Et al - in Chancery +

It is to be understood by this agreement
that said A. L. Greer is not to force a sale
or division of the land by suit or otherwise
unless by the consent of the owners.

Given and

Whereas I have this day bought at a judicial
Sale the undivided interests of the heirs of
John G. Newlee dead in and to all the
lands lying in Lee County Virginia near
Cumberland Gap which belonged to said Newlee
in his lifetime or which is detained what
is known as Newlee's Iron Works, for which
I have and am to pay the Sum of \$482.34
and by an arrangement made with Mr H. Newlee
one of said heirs and myself I am to give
him three years in which to redeem said land
Now if the said Mr H. Newlee shall within
or at the end of three years from this date
pay or refund to me said Sum of \$482.34
with such interest as may accrue thereon
then I am to convey to said heirs the said
undivided interest bought as aforesaid but
if said Sum should not be paid or returned
to me as above stated, then this writing to
be void and of no force whatever.

Given under my hand and Seal Aug. 15 1878
Witness
J. J. Sherrill

A. G. Jones Secy

August 5th 1878

Credit on this agreement Twenty Three (23) Dollars
W. C. Jones

(21)

R. T. IRVINE,
ATTORNEY AT LAW,
BIG STONE GAP, VA.

Exhibits in case of
Newlee et al vs
Eastern Ky Land Co.

LEE CIRCUIT COURT

John G. Newlee, Jr. *et al*

v.

AGREEMENT OF COUNSEL

Eastern Kentucky Land

Company, et al.

In this cause it is agreed that the Commissioner's Land Books of Lee County, for the district in which the land in controversy in this cause is located, show the following facts, to-wit, that Robert M. Ely's estate and John G. Newlee's estate are charged on said Land Books from the year 1878 to the year 1887, inclusive, with Seven Hundred acres of land on Cumberland Mountain, at Twenty Five Cents (25¢) per acre, and that the ~~said~~ assessment was on said books prior to 1878; and that from the said Years from 1878 to 1887, inclusive, no other land was charged on said books to the estate of John G. Newlee, and no land was charged to William H. Newlee or J. W. Divine; that beginning with the year 1888 Robert M. Ely's estate is charged with Eighteen Hundred and Sixty Two acres on Cumberland Mountain, at Twenty Five Cents per acre, noted as "deeded from J. G. Newlee's estate , also corrected;" and the Eastern Kentucky Land Company is charged with Twenty One Hundred and Sixty Two acres, same location, at Twenty Five Cents per acre, noted as " deeded from John G. Newlee's estate;" and that the said two entries continued for several years on said books in the same way.

That for the year 1878, and several years prior thereto, there was no charge on said books against Samuel C. Jones, but beginning with the year 1879, and continuing through the year 1888, Samuel C. Jones was charged with Five acres at Cumberland Gap, noted as " deeded from David Cottrell's estate;" that beginning with the year 1881, and continuing through the year 1889, said Samuel C. Jones was charged on said books with an additional entry of Forty Five acres at Cumberland Gap, no explanation of which is made on said books, and that no other lands during the said years were charged to said

(2)

Jones, and from and after the year 1890, no lands at all were charged on said books to said Jones.

It is agreed that the foregoing statement may be read as evidence in this cause by any ^{of} other parties hereto, as if proved by the depositions of the Clerk of Lee County Court regularly taken.

It is also agreed that the Defendants, the Eastern Kentucky Land Company, and the Ely Heirs, may read as evidence in this cause certified copies from the records of the Lee County Court the following deeds, to-wit;

(1). Deed date June 7, 1871, John F. Tyler and wife to John G. Newlee, recorded D. B. 25, page 109.

(2). Deed date December 7, 1870, A. L. Pridemore, Cmr, to A. D. Woodson, recorded D. B. 16, page 176.

(3). Deed date April 29, 1872, A. D. Woodson to Samuel Jones, recorded D. B. 16, page 469.

(4). Deed date March 13, 1879, John Mealer, et al, to Samuel C. Jones, recorded D. B. 18, page 456.

Witness the following signatures this the 7th day of November, 1901.

J. C. Moore
R. T. Irvine
Paul E. Divinn
For E. Ky Land Co & Ely Heirs
C. T. Humeaux
B. H. Swell 3 attys for

—

John G. Newlee, Jr. et al.

vs.

Eastern Kentucky Land Co. et al.

It is agreed that the following statements are true and are to be treated as facts proven in said cause:

1st. That William H. Newlee, Adaline Divine, nee Newlee, and Sarah Eugenia Slaughter, nee Newlee, were the heirs at law of John G. Newlee, Sr., deceased;

2nd. That William H. Newlee departed this life intestate on the 3rd day of June, 1886;

3rd. That the following were the children and heirs at law of the said William H. Newlee, deceased, to-wit, John G. Newlee, Jr., Elizabeth Ada Newlee who intermarried with William H. Ingram, Mary Caroline Newlee, who intermarried with R. B. Rice

4th. That John G. Newlee, Jr., son of William H. Newlee, deceased was born September, 1st, 1871, that Elizabeth Ada Newlee was born September the 18th, 1873, that Mary Caroline Newlee was born May, 16th, 1875.

5th. That the said William H. Newlee left no wife surviving.

Given under our hands this the 27th day of May, 1901.

B. H. Swell & C. L. Duncanson
Attys for Plaintiffs,
W. H. Trimmie, Atty
for Defendants.

John S. Newell Jr. & al.
vs. { Agreement of Facts.
E. Ky. Land Co. & al.

February 27, 1883

Know all Men by these Presents, That we W. G. Bolson, B. H. Sewell
and C. T. Duncan

are held and firmly bound unto the Commonwealth of Virginia, in the sum of \$100.00,
One hundred dollars, to the payment whereof, well and truly to be made to
the said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs,
executors, and administrators, jointly and severally, firmly by these presents. And we hereby
waive the benefit of our homestead exemptions as to this obligation, and any claim or right
to discharge any liability to the Commonwealth arising under this bond or by virtue of said office,
post or trust, with coupons detached from the bond of this State. Sealed with our seals, and
dated this 10th day of November one thousand eight hundred and ninety
Nine

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas a suit has
been instituted in the Circuit Court for Lee County
Va. on the Chancery side thereof by John G. Newlee Jr
et als against The Eastern Kentucky Land Company
et als, and it having been suggested by the defendants
that the plaintiffs in this suit are not residents of
this State, and that security for the payment of Costs
and damages is required of them.

Now therefore if the John G. Newlee Jr et als or some
one for them shall pay all Costs and damages
which may be awarded against them, and fees
due or to become to the officers of this Court,

then this obligation to be void or otherwise to remain in full force and virtue.

A Copy.

Teste: A. B. Munsey Clerk

W. G. Bolson [SEAL.]

B. H. Sewell [SEAL.]

C. T. Duncan [SEAL.]

In the Circuit Court of the County of Lee, the _____ day of _____
189 .

This bond was executed and acknowledged, in open Court. by the obligors, and ordered to
be recorded, _____

the suret therein having first justified on oath that _____ estate , after the payment of all
_____ just debts, and those for which he _____ bound as security for others and expect
to have to pay, _____ worth the sum of _____
dollars, over and above all exemptions allowed by law.

Teste:

Clerk.

John G. Newlee Jr et al

to { Copy of **BOND.** for Costs

Commonwealth.

Filed Nov 10th 1899

A B Munsey clk

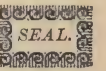
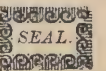
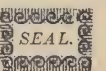
Know all Men by these Presents, That we R. B. Rice and C. E. Leach
are held and firmly bound unto the Commonwealth of Virginia, in the sum of \$100.00
One hundred Dollars,
to the payment whereof, well and truly to be made to the said Commonwealth of Virginia, we bind ourselves
and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly
by these presents. And we hereby waive the benefit of our exemptions as to this obligation, and
also of any claim or right to discharge any liability to the Commonwealth arising under this bond, or by
virtue of said office, post or trust, with coupons detached from the bonds of this State. Sealed with our
seals, and dated this 27th day of November one thousand nine
hundred and One.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas at a Circuit Court held for
the County of Lee on the 15th day of November
1901, in a certain suit in chancery then pending in the said court between
John G. Newlee Jr et als plaintiffs,
and The Eastern Kentucky Land Company et als defendant,
a decree was entered dismissing the plaintiffs bill and adjudging
Costs against said plaintiffs in favor of certain of the defendants
mentioned in said decree.

and whereas, on the 15th of November 1901, during the same term at which the
said decree was entered, the said court, in order to allow the said Plaintiffs
to apply for an appeal from said decree, made an order
suspending the execution of the said decree for the period of Ninety days from the date
thereof upon the said John G. Newlee Jr et als
or some one for them giving bond before the clerk of said court in the penalty of \$100.00
One hundred dollars, with condition according to law. And whereas it is
the intention of the said John G. Newlee Jr et als
to present a petition for an appeal from said decree. Now therefore if the said John G. Newlee Jr
et als shall pay all such damages as any person may sus-
tain by reason of the said suspension, in case a supersedeas to the said decree shall not be allowed and be
effectual within the said period of Ninety days, specified in the aforesaid order of the said
court, then the above obligation to be void, or else to remain in full force.

Signed, sealed, acknowledged and de-
livered in the presence of

R B Rice
C E Leach



In the Clerk's Office of the Circuit Court of the County of Lee
This day personally appeared before me A B Munsey, Clerk
of the Circuit Court of the County of Lee
C. E. Leach, and made oath
that his estate, after the payment of all his just debts, and those for which he is bound
as security for others and expect to have to pay is worth the sum of One hundred
one dollars, over and above all exemptions allowed by law.

Given under my hand, this 27th day of November, 1901

A B Munsey Clerk.

John G. Newlee et al

to

{

SUSPENDING BOND.

Commonwealth.

Filed Nov 27th 1901
ATB Murray Clerk

Recorded in Bond Book
No 1 Page 50,

VIRGINIA:--In the Clerk's Office of the Circuit Court of the County of Lee
on the 12th day of September 1899.

John S. Newlee Jr., Elizabeth Ingram & Mrs. H. Ingram her
husband barrie Rice & R. B. Rice her husband Plaintiff &
Against

The Eastern Kentucky Land Company
and others Defendant &

In Chancery

The object of this suit is to partition among those entitled the tract of land
in the bill and proceedings mentioned, it being that part
of the tract granted by the State of Virginia to Nathan Fields
containing as described in the Patent 7080 acres, which lies
in the State of Virginia.

And an affidavit having been made and filed that the defendant S. Laura Brafford and Fred Brafford
her husband, John Hopkins, Alice Fleeman & William Fleeman
her husband, William Slaughter, William Good & Irene Good
are not resident S. of the State of Virginia, it is ordered that they do appear here within fifteen days

after due publication hereof, and do what may be necessary to protect their interest in this suit. And it is further
ordered that a copy hereof be published once a week for four weeks in the South West Virginian
and that a copy be posted at the front door of the court-house of this county on the first day of the next term of the
county court.

A copy—Teste:

C. T. Duncan & B. H. Sewell P. O.

A. B. Mursey Clerk.

John G. Newlee & et als
AGAINST } ORDER
OF
PUBLICATION.

The Eastern Ky Land Co
C. T. Duncan & B. H. Sewell
P. Q.

Virginia Lee County
to-wit:
I A. B. Munsey Clerk of
the Circuit Court for Lee Co
Va do hereby certify that
I posted a copy of the
within order of Publication
at the front door of the
Court-house of Lee County
on the 1st day of the Sept
term of the County Court
for said County.
Given under my hand
this the 20th of Sept 1899
A. B. Munsey Clerk

To John G. Neulee Jr, W. H. Ingram, & Elizabeth
Ingram, his wife, R. B. Rice & Carrie Rice
his wife, Plaintiffs and Laura Bradford,
Fred Bradford, John Hopkins, Alice Fleeman
Wm. Fleeman, Wm. Slaughter, Wm. Good & Irene
Good, Defendants, in the Chancery cause of
John G. Neulee et al against Eastern Ky
Land Co et al, pending in the Circuit Court
of Lee County Va.

You will please take notice, that
on the 6th day of May 1901, at the Williams
Hotel in Cumberland Gap Tenn, between the
hours of 8 o'clock A.M. & 8 o'clock P.M., we
will proceed to take the depositions of J. H.
S. Morrison and others, which depositions
when taken are intended to be read as
evidence in our behalf in said cause, and
if from any cause the taking of said depo-
sitions ~~are~~ not commenced on that day,
or if commenced ~~are~~ ^{is} not completed on that
day, the taking of the same will be adjourned
from time to time, ^{from place to place} until completed.

Respectfully.

Eastern Ky Land Co.

Margaret Ely.

Ann Ely.

W. P. Allen.

Mary Allen.

By Orr & Irvine & C. Noell, their attys.

Eastern Ky Land & Co.

vs Notice

John G. Neulce et al.

We accept legal service
of the within notice
April 24th 1901.

6 T. Duncan

15 H. Swallow

Attorneys for John G.
Neulce in W. H. Ingram
vs Elizabeth Ingram her
estate R. B. Rice and
George Rice her heirs

Geo. P. Crutcher

guardian on return

for Wm. & Eliza Rice

I have executed the within
notice on Laura Bradford.
Fred Bradford, John Hopkins,
Alice Freeman, Mr. Freeman,
& Mr. Plaughter by delivering
to W. G. Calson's wife at his
residence a true copy thereof
and reading and explaining the
same to her, he being not found
at his usual place of abode,
and she being a member of his
family over 14 yrs of age, and

said W. G. Calson being attorney for said parties in
said cause May 2nd 1901. J. P. McDonald for W. G.
McDonald & Co.

The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

^{again}
WE COMMAND YOU, that you summon

The Eastern Kentucky Land Company a Corporation organized and existing under the laws of Kentucky, and doing business in Virginia, Laura Brafford and Fred Brafford her husband, John Hopkins, Alice Fleeman nee Alice Hopkins, and William Fleeman her husband, William Slaughter, William Good, Irene Good, Maggie Ely, Ann Ely, Mary Allen nee Ely and W. P. Allen her husband,

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the *3rd* Monday in *October*, 189*9*, to answer a bill in chancery, exhibited against *them* in our said court by

John G. Newlee Jr., Elizabeth Ingram and Mrs. H. Ingram her husband, and Carrie V. Rice and R. B. Rice her husband,

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *5th* day of *October*, 189*9*, and in the *124th* year of the Commonwealth.

A B Munsey Clerk

Serve Copies on:
W. Pat Allen & wife

Form No. 300.

John G. Newlee Jr et als

vs. }

SUBPOENA
IN
CHANCERY.

The Eastern Ry Land Co
& others

C. T. Duncan & B. H. Sewell p. q

To 2nd October Rules.

1899 Circuit Court.

Executed this 7 day of
of Oct: 1899, by delivering
an attested office copy of
the within summons to
W. P. Allen.

D. P. Ely D. S. for W. P.

Milham, S. L. C.

Executed Oct 11th 1899, by delivering an office copy of the within
Spa in Chay to Mary Allen nee Mary Bell
C. W. Bell Dept for W. P. Milham S. L. C.

[SUBPENA.]

STATE OF TENNESSEE, CLAIBORNE COUNTY.

To Any Lawful Officer of Said County—To Execute and Return:

Summons

J. A. Hamilton *J. C. Hamilton* *B. B. Lester* *John Thompson* *R. J. Patterson*
J. A. Hamilton *J. C. Hamilton* *B. B. Lester* *John Thompson* *R. J. Patterson*

to appear before *at Cumberland Gap*, J. P., at *May 7/1901*

to give evidence on behalf of the *E. K. Land co. J. W. Sevin & Co.*, wherein *Mary Lee hires*

to take from defa
is plaintiff, and *E. K. Land co. J. W. Sevin and Co.* is defendant. Herein fail not under the

lawful penalty.

Given under hand and Seal, this *6* day of *May* *1901*

R. Green

Justice of the Peace.

SUBPOENA.

Newley heirs

vs.

E. Mayland co for Senior
and others

Issued 6 day of May 1861

R. Greer J. P.

Came to hand 6 day of May 1861

Executed ~~by~~ as commanded

this May 7 1861

J. S. Sharp L. S.

Deft Shff Claiborne Co Tenn

\$16.00

The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, that you summon *The Eastern Kentucky*
Land Company a corporation organized
and existing under the laws of Kentucky
and doing business in Virginia, *Laura*
Brafford and *Fred Brafford* her husband
John Hopkins, *Alice Fleeman* nee *Alice*
Hopkins and *William Fleeman* her husband
William Slaughter, *William Good*, *Irene Good*,
Maggie Ely, *Ann Ely* and *Mary Allen* nee *Ely*
and *W. P. Allen* her husband

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held
for the said Court on the *1st* Monday in *October*, 189*9*, to answer a bill in
chancery, exhibited against *them* in our said court by

John G. Newlee Jr., *Elizabeth Ingram* and *Mrs J. F.*
Ingram her husband and *Barrie O. Rice* and
R. B. Rice her husband

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,
the *12th* day of *September* 189*9*, and in the *124th* year of the Commonwealth.

A. B. Munsey Clerk

John G. Newlee et als

vs. }

SUBPOENA
IN
CHANCERY.

Eastern Ky Land Co et als

C. T. Duncan & B. H. Sewell p. q

To 1st October Rules.

Circuit Court.

The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, that you summon *The Eastern Kentucky Land Company* a Corporation organized and existing under the laws of Kentucky and doing business in Virginia, *Laura Brafford*, *Fred Brafford* her husband, *John Hopkins*, *Alice Fleeman* nee *Alice Hopkins* and *William Fleeman* her husband *William Slaughter*, *William Good*, *Irene Good*, *Maggie Ely*, *Ann Ely*, and *Mary Allen* nee *Ely* and *W. P. Allen* her husband

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the *1st* Monday in *October*, 189*9*, to answer a bill in chancery, exhibited against *them* in our said court by

John G. Newlee Jr., *Elizabeth Ingram* and *Wm. H. Ingram* her husband and *Carrie Rice* and *R. B. Rice* her husband

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *12th* day of *September* 189*9*, and in the *124th* year of the Commonwealth.

A Copy

A. B. Munsey Clerk

Teste: A. B. Munsey Clerk

John G Newlee et al

vs.

}

SUBPOENA
IN
CHANCERY.

Eastern Ky Land Co et al

C. T. Duncan & B. D. Sewell p. q

To 1st October Rules.

1899. Circuit Court.

Executed Sept 28th 1899 by
delivering an office copy of
the within subpoena to
Maggie Ely and Ann Ely
C. W. Bell. Dept
for W. J. Milham S. L. C.

**CERTIFICATE OF
ORDER OF PUBLICATION.**

I, A. M. Goins, Editor of the **SOUTH-
WEST VIRGINIAN**, a weekly newspa-
per published at Jonesville, Lee County,
Va., do hereby certify that the annex-
ed notice was published in said paper
once a week for four successive weeks,

commencing on the 14th day of

Sept., 1899.

A M Goins, EDITOR.

FEE, \$5.00

VIRGINIA... In the Clerk's Office of the
Circuit Court of the County of Lee on the
12th day of September, 1899.

John G. Newlee, Jr., Elizabeth Ingram
& Wm. H. Ingram her husband, Carrie
Rice & R. B. Rice her husband Pl'tfs.
Against } In Chancery.

The Eastern Kentucky Land Company
and others, Defendants.

The object of this suit is to partition among
those entitled the tract of land in the bill
and proceedings mentioned, it being that
part of the tract of land granted by the
State of Virginia to Nathan Fields con-
taining as described in the Patent 7080
acres, which lies in the State of Virginia.
And an affidavit having been made and
filed that the defendants Laura Brafford &
Fred Brafford her husband, John Hopkins
Alice Fleeman & William Fleeman her
husband, William Slaughter, William Good
& Irene Good are not residents of the state
of Virginia, it is ordered that they do ap-
pear here within fifteen days after due
publication hereof, and do what may be
necessary to protect their interest in this
suit. And it is further ordered that a copy
hereof, be published once a week for four
weeks in the Southwest Virginian, and
that a copy be posted at the front door of
the courthouse of this county on the first
day of the next term of the county court.

A copy—Teste:

A. B. MUNSEY, Clerk.

C. T. Duncan & B. H. Sewell, p.q. 9-14-99

ORDER OF PUBLICATION.

John G. Newlee et al

VS.

IN CHANCERY.

The Eastern Ky. Land Co. et al

FEE

\$3-00

CERTIFICATE OF
ORDER OF PUBLICATION.

I, A. M. Goins, Editor of the SOUTH-
WEST VIRGINIAN, a weekly newspa-
per published at Jonesville, Lee County,
Va., do hereby certify that the annex-
ed notice was published in said paper
once a week for four successive weeks,
commencing on the 26th day of

July, 1900.
A. M. Goins, EDITOR.

FEE, \$5.80

ORDER OF PUBLICATION.

VIRGINIA—In the Clerk's Office of the
Circuit Court of the County of Lee on
the 18th day of July, 1900.

The Eastern Kentucky Land Company
a Corporation, Plaintiff,
against

D. T. Hodges, Defendant.

[Action of Trespass on the Case.]

The object of this suit is to recover of
the defendant the sum of \$500.00 for dam-
ages to the property of the plaintiff by the
defendant and to attach the estate of the
said defendant to secure the payment of
said sum of money. And an affidavit hav-
ing been made and filed that the defen-

D. T. Hodges is
not a resident of the State of Virginia, it
is ordered that he do appear here within
fifteen days after due publication hereof,
and do what may be necessary to protect
his interest in this suit. And it is further
ordered that a copy hereof be published
once a week for four week in the South-
west Virginian, and that a copy be posted
at the front door of the court-house of this
county on the first day of the next term of
county court.

A copy—Teste:

A. B. MUNSEY, Clerk.

D. C. Sewell & Pennington Bros., p. q. 7-26

ORDER OF PUBLICATION.

The Eastern Ky. Land Company

VS.

IN CHANCERY.

W. F. Hodges.

FEE \$5.80

Paid by S. B. Cockrell